

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
Southern California Edison (U338E) for a  
Permit to Construct Facilities: Eldorado  
Lugo Mohave Series Capacitor Project.

Application 18-05-007  
(Filed May 2, 2018)

**OPENING BRIEF  
OF THE PUBLIC ADVOCATES OFFICE OF THE  
CALIFORNIA PUBLIC UTILITIES COMMISSION**

**NICHOLAS SHER**  
Attorney for the  
Public Advocates Office

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Telephone: (415) 703-4232  
Email: [Nicholas.sher@cpuc.ca.gov](mailto:Nicholas.sher@cpuc.ca.gov)

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**I. INTRODUCTION**

Pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, and the Administrative Law Judge's (ALJ) September 7, 2018 ruling, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates)<sup>1</sup> submits this opening brief on Southern California Edison's (SCE) non-compliant application for a Permit-to-Construct (PTC) 500 kilovolt (kV) series capacitors and other transmission facilities on the Eldorado-Lugo-Mohave (ELM) 500 kV transmission line.

**II. SUMMARY OF ARGUMENTS**

- A. SCE should be required to file a Certificate of Public Convenience and Necessity (CPCN) application for its ELM project;**

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<sup>1</sup> The Office of Ratepayer Advocates was renamed the Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which was signed by the Governor on June 27, 2018 (Chapter 51, Statutes of 2018).

- B. In support of its application, SCE has made several statements to the Commission that border on contravening Rule 1.1 of the Commission's Rules of Practice and Procedure;<sup>2</sup> and**
- C. Rule 1.1. requires that the Commission be provided with accurate information.**

### **III. BACKGROUND**

On May 2, 2018 SCE filed a PTC application for its ELM project. In the application, SCE seeks authorization to construct and/or modify, along with other transmission facilities:

- Over sixty 500 kV transmission towers;<sup>3</sup>
- 235 miles of new optical ground wire (OPGW);<sup>4</sup>
- Two new 500 kV mid-line capacitors;<sup>5</sup> and
- Replace existing series capacitors on the Lugo 500 kV transmission line.<sup>6</sup>

The Public Advocates Office protested SCE's application stating that SCE's application failed to comply with GO 131-D as SCE is seeking authorization to construct new transmission facilities subject to Section III (A) of GO 131-D, and therefore, SCE should have filed a CPCN application. SCE replied to the protest on June 11, 2018. The Public Advocates Office was granted permission to file a response to SCE's reply and did so on July 5, 2018, with SCE filing a reply to the response on July 10, 2018. At the August 24, 2018 prehearing conference, the ALJ requested that parties file briefs to address the issues raised in the Public Advocates Office's protest and the parties' subsequent filings.

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<sup>2</sup> Unless otherwise noted, all references to Rule 1.1 refer to the Commission's Rule 1 of the Commission's Rules of Practice and Procedure.

<sup>3</sup> SCE Application, at F-16, and SCE's Proponents Environmental Assessment (PEA), pp. 3-A-1, 3-A-2, 3-A-3, 3-75, and 3-77.

<sup>4</sup> SCE Application page 2.

<sup>5</sup> SCE Application page 1.

<sup>6</sup> SCE Application page 3.

#### IV. DISCUSSION

SCE's application for a PTC should be dismissed as it does not comport with the filing requirements set forth in GO 131-D. In addition, in trying to contort its ELM project into a PTC application, SCE made statements bordering on violating Rule 1.1. The Commission should be aware of this pattern and practice and should sanction SCE if it continues such behavior.

##### **A. SCE should be required to file a CPCN application for its ELM project.**

GO 131-D states that no utility may begin construction in the state of new major transmission line facilities without complying with the provisions of GO 131-D. Section III (A) of the GO applies to transmission facilities over 200 kV and requires the filing of a CPCN to construct or modify such, except for the

replacement of existing power line facilities or supporting structures with equivalent facilities or structures, the minor relocation of existing power line facilities, the conversion of existing overhead lines to underground, or the placing of new or additional conductors, insulators, or their accessories on or replacement of supporting structures already built.<sup>7</sup>

In its ELM application, SCE is seeking permission to construct the following transmission facilities:

- 235 miles or 1,240,800 feet of new OPGW;
- Construction/modification of fifty-nine 500 kV transmission towers;
- Increase the height of nine 500 kV transmission towers;
- Construct two new 500 kV mid-line capacitors; and
- Replace three existing series capacitors on the Eldorado-Lugo and Mohave-Lugo 500 kV transmission lines.

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<sup>7</sup> Section III (A) includes a parenthetical containing exempt activities from the requirements of filing a CPCN application. The listed exemptions do not apply to the construction activities SCE is seeking authorization for.

These transmission facilities are neither minor, nor do they fit within the CPCN's limited set of exemptions.

SCE cites to the Commission's ruling in SCE's *Red Bluff* proceeding as support for filing a PTC in this instance. In its reply to the Public Advocates Office's protest, SCE states that

prior Commission decisions have made clear that it is important to look at the facility in the context of the overall project, and that facilities such as transmission loop-in-lines; that span only a relatively short length, are not "major" electrical facilities requiring a CPCN.<sup>8</sup>

In *Red Bluff*, SCE filed a PTC application to construct a new 500 kV substation as well as loop-in approximately 2,500 to 3,500 feet of new 500 kV transmission line.<sup>9</sup> The Public Advocates Office protested the application arguing that SCE should be required to file a CPCN application as opposed to a PTC. However, the Commission disagreed, ruling that:

[I]n view of the relatively short length of the new transmission line segments and in the context of the overall project, the transmission loop-in lines are not "major" facilities that require a CPCN.<sup>10</sup>

In its prior filings, SCE fails to mention or cite to A.09-09-020 (*Alberhill*) one of SCE's more relevant prior GO 131-D applications.

In *Alberhill*, SCE filed a PTC application for a new 500 kV substation as well as approximately 3 miles/17,000 feet of new 500 kV transmission line. The Public Advocates Office protested SCE's application arguing that SCE should be required to file a CPCN for its *Alberhill* project. The Commission agreed and stated:

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<sup>8</sup> See, *SCE Reply to Office of Ratepayer Advocate's Protest*, p. 3.

<sup>9</sup> SCE's Application 10-11-012, p. 4.

<sup>10</sup> See, A.10-11-012, *In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Facilities: Red Bluff Substation Project*, Assigned Commissioner's Scoping Memo and Ruling at p. 6.

[T]he reason for implementing the PTC procedure was that “under-200 kV projects pose little economic risk to ratepayers, and thus, absent the potential for environmental impacts and related California Environmental Quality Act obligations, would not otherwise trigger Commission pre construction review.” Again, that reasoning does not apply to the circumstances of this application, as this project involves over-200 kV facilities that are presumed to pose economic risk to ratepayers.<sup>11</sup> (Internal citation omitted).

As SCE states in its reply to the Public Advocates Office’s protest, context matters.<sup>12</sup> According to SCE, the ELM project will cost ratepayers an estimated \$225 million in 2018 constant dollars.<sup>13</sup> However, the actual cost of the project could be much higher than this already significant amount. While SCE’s current estimated cost is \$225 million, in its 2018 rate case submittal, SCE estimated the cost to be \$269 million;<sup>14</sup> and in 2016, in a mid-year compliance filing to the CPUC, SCE estimated the cost to be between \$350-400 million.<sup>15</sup> None of these costs account for the purchase of new property for the mid-line series capacitors, or revised rights for the existing Right of Way (ROW).<sup>16</sup> Regardless whether the cost is \$190 million or \$350-400 million, the cost of this project is not minor.<sup>17</sup>

Moreover, minor projects have not involved changes of the magnitude contemplated in this application. SCE argues that the precedent for a PTC for the

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<sup>11</sup> *Alberhill A.09-09-022 Ruling*, p. 2-3.

<sup>12</sup> See, *SCE Reply to Office of Ratepayer Advocate’s Protest*, p. 3.

<sup>13</sup> See, SCE Application, p. 5.

<sup>14</sup> SCE 2018 General Rate Case Workpapers dated September 2016.

<sup>15</sup> CPUC July 2016 Quarterly Compliance Report

<sup>16</sup> CAISO TP 2012-2013 page 374 and CAISO TP 2013-2014 page 291.

<sup>17</sup> In fact, it is the Public Advocates Office’s understanding that SCE has already purchased certain ELM transmission items and is already including the cost of such in its transmission rates. Clearly, SCE should have and is required to file a CPCN for its ELM project. (SCE has formula rates at FERC and receives Construction Work In Progress (CWIP), which means that SCE is already collecting a return on a project the Commission has not yet authorized).

ELM Project is the decision for the Red Bluff Substation project, in which the construction was deemed “minor.”<sup>18</sup> However, the transmission portion of the Red Bluff project included only 2,500 to 3,500 feet of new 500 kV transmission line as opposed to the construction of 235 miles (or 1,240,800 feet) of new 500 kV transmission facilities contemplated here.<sup>19</sup> Similarly, unlike in *Red Bluff*, in the instant application, the transmission portion of the ELM project includes two new 500kV series capacitors, the replacement of three series capacitors in existing substations, 235 miles of new OPGW, the construction/modification of more than sixty 500 kV transmission towers, the purchase of land from the Bureau of Land Management and a private party, and the possible revision to existing Right of Way (ROW) agreements.<sup>20</sup> For these reasons, the relevant precedent is *Alberhill* and not *Red Bluff*, and the Commission should require SCE to file a CPCN application for its ELM project.<sup>21</sup>

**B. In support of its application, SCE has made several statements to the Commission that border on contravening Rule 1.1 of the Commission’s Rules of Practice and Procedure.**

In an attempt to garner approval of its PTC application, and avoid filing a CPCN application, SCE has made several false and/or misleading statements.

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<sup>18</sup> See, *SCE Reply to Office of Ratepayer Advocate’s Protest*, p. 3.

<sup>19</sup> In D.94-06-014 (Commission decision adopting the new GO 131-D) the Commission stated that “under-200-kV power lines cover shorter distances compared to over-200-kV transmission lines;” *Re Rules, Procedures and Practices Applicable to Transmission Lines Not Exceeding 200 Kilovolts*, 55 CPUC 2d 87, 101.

<sup>20</sup> The revision to SCE’s ROW is unknown as SCE has not completed final engineering for this project.

<sup>21</sup> Further support for requiring a CPCN is provided by SCE itself. The Field Management Plan submitted by SCE with its PTC application (page F-18) states that there are no new substations proposed as part of the proposed project. Thus, SCE is only proposing to seek authority for constructing or modifying its transmission facilities.



**1. Series capacitors are not functionally equivalent to substations.**

SCE argues that series capacitors are functionally equivalent to substations because they have a similar physical make-up, components, and use similar protection devices and air switches to bypass the capacitors from service.<sup>22</sup> However, “the function of a series capacitor bank is to increase the transfer capability of transmission lines and provide transit control in the event of a power outage.”<sup>23</sup> This is one reason why series capacitors are modeled as transmission line segments in the power load flow program used by the Western Electricity Coordination Council (WECC), the CAISO, and SCE. In the power flow studies submitted by SCE on June 13, 2018, the series capacitors on the Lugo-Mohave and Lugo-Eldorado 500 kV lines are modeled as “transmission line segments” and not as substations. Since WECC, CAISO, and SCE consider series capacitors to be transmission line segments in their modeling, a series capacitor cannot be considered functionally equivalent to a substation.

**2. SCE’s proposed fiber optic lines are not like-for-like replacement.**

SCE asserts that replacing an overhead ground wire (“OHGW”) with its proposed fiber OPGW is a like-for-like replacement.<sup>24</sup> This, again, is a false and misleading statement. An OHGW is a facility that serves the sole purpose of providing lightning protection and distributed grounding. The existing ground wire does not have a communication conductor. An OPGW, on the other hand, contains optical fibers for telecommunication purposes, in addition to providing lightning protection and distributed grounding. The new communication conductor SCE proposes to install is not the equivalent of the ground wire that

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<sup>22</sup> SCE PEA Field Management Plan p. F-17.

<sup>23</sup> IEEE Std 824 Standard for Series Capacitor Banks in Power Systems page 5 and IEEE Std. 1726-2010 Draft Guide for the Specification of Fixed Series Capacitor Banks for Transmission System Application page 4.

<sup>24</sup> SCE’s Reply to ORA’s Protest, p. 4.

SCE is replacing. Thus, replacing an OHGW is an upgrade of transmission facilities, not a like-for-like replacement. Moreover, if the installation of the 500 kV series capacitors did not occur, most, if not all of the new OPGW facilities in the project would not be needed, which means that none of the tower work would be needed either.

**3. Contrary to SCE’s claim, SCE’s plans to construct/modify over sixty 500 kV towers is neither minor nor a “vertical” relocation of existing facilities.**

SCE claims that its plan to raise at least nine 500kV towers by over 18 feet are minor, “vertical relocations.”<sup>25</sup> SCE provides no support for its “vertical relocation” argument. Indeed, the term itself, coined by SCE, is misleading. A relocation is the act of moving an object to a new location,<sup>26</sup> which is not the case here. It was only after the Public Advocates Office’s challenged the use of this term that SCE claimed its reference to a vertical relocation “was not intended to claim a separate exemption under GO 131-D, but instead was used as an illustration to demonstrate how raising the towers in this case does not trigger a CPCN because it is not “major” transmission line work under the *Red Bluff* decision.”<sup>27</sup>

Nor are SCE’s proposed modifications “minor.” SCE states in its PEA that existing towers range from 80 to 250 feet in height<sup>28</sup> and proposes raising nine towers, some by at least 18.5 feet.<sup>29</sup> At minimum, this is a 7-23% change in

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<sup>25</sup> SCE’s Reply to ORA’s Protest, p. 4.

<sup>26</sup> Taken from the Merriam-Webster Dictionary: Relocate – “To move to a new location”.

<sup>27</sup> See, *Motion for Leave to File Reply of Southern California Edison Company (U-388-E) to The Office of Ratepayer Advocates’ Response to Southern California Edison’s Reply to The Office of ratepayer Advocate’s Protest*, p. 2.

<sup>28</sup> Eldorado-Lugo-Mohave Series Capacitor Project, Proponent’s Environmental Assessment (“ELM PEA”), p. 3-31.

<sup>29</sup> ELM PEA, p. 3-A-1, 3-A-2, and 3-A-3.

height of these nine 500kV towers. These are not minor modifications. Additionally, SCE lists fifty-nine other modifications to 500kV towers,<sup>30</sup> while stating that “[m]odification of existing LSTs [lattice steel towers] typically involves raising towers.”<sup>31</sup> This is potentially raising the height of fifty-nine towers. Since no further information is provided on these modifications, it is possible that SCE plans to make major modifications to these fifty-nine towers.

**C. Rule 1.1. requires that the Commission be provided with accurate information.**

Rule 1.1 states:

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.

Public Utilities Code § 702 states, in pertinent part:

Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.

The Commission has held that utility

compliance with Commission rules is absolutely necessary to the proper functioning of the regulatory process ... The purpose of Rule 1.1 is to preserve the integrity of the Commission’s process and to provide an enforcement tool to address situations when parties

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<sup>30</sup> ELM PEA, p. 3-77.

<sup>31</sup> ELM PEA, p.3-75.

that practice before the Commission do not provide truthful, accurate, or complete information.<sup>32</sup>

Moreover, with regards to intent, the Commission has held that intent is not a requirement to find a violation of Rule 1.1:

As we have noted in previous decisions, there is no “intent, recklessness or gross negligence” requirement to a Rule 1.1 violation, either implicitly or explicitly. We have previously held that Rule 1.1 violations have occurred where there has been a lack of candor, withholding of information, or failure to correct information or respond fully to data requests. As further explained in D.13-12-005, the question of intent to deceive merely goes to the question of how much weight to assign to any penalty that may be assessed.<sup>33</sup> (Internal citations omitted).

Based on the facts and arguments set forth above, SCE has made several false and misleading statements to the Commission in pursuit of approval of its PTC for the ELM project. The Commission should be aware of this behavior and should remind SCE of its obligations with regards to Rule 1.1 and monitor SCE’s future filings to document such a pattern and practice.

## V. CONCLUSION

Based on the foregoing, the Public Advocates Office respectfully requests that the Commission reject SCE’s PTC for its ELM project and instead require SCE to file a CPCN application. In addition, SCE has made several false and misleading statements to the Commission and staff and the Commission should therefore remind SCE of its obligations to provide accurate information to the Commission or otherwise be sanctioned in the future.

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<sup>32</sup> D.15-04-008, p. 7.

<sup>33</sup> *Id* at pp. 10-11.

Respectfully submitted,

/s/ NICHOLAS SHER

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NICHOLAS SHER

Attorney for the  
Public Advocates Office

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Telephone: (415) 703-4232  
Email: [Nicholas.sher@cpuc.ca.gov](mailto:Nicholas.sher@cpuc.ca.gov)

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