

Decision 18-07-038 July 26, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Nextera Energy Transmission West, LLC and Pacific Gas and Electric Company (U39E) for Permits to Construct the Estrella Substation and Paso Robles Area Reinforcement Project.

Application 17-01-023

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding to August 31, 2020.

1. Background

On January 25, 2017, NextEra Energy Transmission West, LLC, (NEET West) and Pacific Gas and Electric Gas Company (PG&E) jointly submitted Application (A.) 17-01-023, to the California Public Utilities Commission (Commission) to request individual Permit to Construct each of their respective components of the Estrella Substation and Paso Robles Area Reinforcement Project. The Estrella Substation and Paso Robles Area Reinforcement Project, composed of a new 230/70 kV substation and associated 230 kV and 70 kV interconnection and power line facilities, are collectively referred to hereinafter as the “Estrella Project.”

The Application was accompanied by a Proponent's Environmental Assessment (PEA), which was revised on May 18, 2017 (Revised PEA).¹ Since then, the Applicants have filed a series of revisions and additions to the PEA and provided some of the requested system data to address deficiencies identified by the Commission's California Environmental Quality Act (CEQA) section in Energy Division (CEQA Team). Much of the requested system data is still outstanding from PG&E, and the PEA is not yet deemed complete.

On July 14, 2017, the Administrative Law Judge issued a "Ruling Giving Notice of Anticipated Scope of Issues; Timing of Prehearing Conference; and Addressing Other Procedural and Substantive Matters" (Ruling). The ruling provides:

The Commission's Energy Division has initiated its environmental review, and will continue with that review to the extent possible. As a part of the environmental review process, Commission staff will provide the opportunity for public review and comment as required by CEQA. Upon completion, the Final EIR will be admitted into the evidentiary record of this proceeding. The PHC [prehearing conference] will be scheduled after the Energy Division issues the draft EIR. As may be determined, draft EIR issuance is expected in the summer of 2018 depending on Applicant responsiveness to data requests and the amount of project modifications that may be required. (Emphasis mine.)

¹ Energy Division's CEQA section submitted PEA Deficiency Letter No. 1 to the Applicants on February 16, 2017. The letter requested a Revised PEA. Deficiency Letter No. 4 was sent to the Applicants on February 22, 2018 and the Applicants' responses were received on May 7, 2018, including the refiling of PEA Appendix G, Distribution Needs Analysis, with the CPUC Docket Office. At this time, it is believed that PG&E continues to work toward packaging the required system data for the project region to submit to Energy Division. A series of submittals from PG&E to Energy Division are expected through at least July 2018. Energy Division continues to accept and verify each set of electrical system data as submitted.

The CEQA Team has not been able to perform and/or complete its environmental reviews of the proposed project, and has not prepared its Environmental Impact Report (EIR), which has been deemed necessary in this proceeding.² Accordingly, the proposed timeline for completing the draft IER, and for holding PHC and/or hearing in this proceeding are no longer feasible, and accordingly the timeline required for resolving this proceeding is delayed, as further discussed below.

2. Procedural Delay and Basis for Extension of Time

Pursuant to Public Utilities Code (Pub. Util. Code) Section 1701.5, the commission shall resolve the issues raised in the scoping memo, of a ratesetting proceeding, within 18 months of the date the proceeding is initiated, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline.

As provided above, Applicants' PEA is yet to be finalized and has not been deemed complete. Thus, the Commission's CEQA Team has not been able to perform and/or complete its environmental reviews of the proposed project in order to prepare its EIR. Until the EIR (regarding the environmental impacts of the project, and ways to avoid or reduce environmental damage) is prepared and submitted for evaluation in this proceeding, the Commission may not consider the proposed Estrella Project for approval.

² CEQA requires the lead agency (the Commission in this case) to conduct a review to identify environmental impacts of the project, and ways to avoid or reduce environmental damage, for consideration in the determination of whether to approve the project or a project alternative. In this case, the lead agency shall prepare an EIR that identifies the environmental impacts of the proposed project and alternatives, and design a recommended mitigation program to reduce any potentially significant impacts, or identifies, from an environmental perspective, the preferred project alternative.

Based on the current status of the PEA, it is anticipated that Applicants' PEA will be deemed complete no sooner than August 2018, and a draft EIR is expected to be completed by August 2019. Following circulation of the draft EIR, a prehearing conference will be held and a procedural schedule for the formal part of this proceeding would be adopted.

Because it is anticipated that the EIR may propose a project(s) alternative for consideration and approval, in lieu of the proposed Estrella Project, it is also anticipated that a litigated proceeding and/or active evidentiary hearings would ensue. Accordingly, this decision anticipates that another 12 months of litigation and decision time will be needed after circulation of the draft EIR. Accordingly, the decision extends the statutory deadline in this proceeding to August 31, 2020.

3. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving ratesetting proceedings. Accordingly, the otherwise applicable period for public review and comment is being waived.

4. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Adeniyi A. Ayoade is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. A.17-01-023, a ratesetting proceeding, was filed on January 25, 2017.
2. The 18-month deadline for the resolution of this proceeding is July 27, 2018.

3. This proceeding cannot be resolved by July 27, 2018, within 18 months of initiation, as required by § 1701.5, because the required PEA has not yet been deemed complete. The Draft EIR for the proposed project is not expected to be completed by Commission staff until August 2019.

4. Until the environmental reviews are completed, the Commission may not approve the proposed project herein submitted for approval.

5. An extension of time until August 31, 2020, is necessary to permit adequate time for the formal evaluation and/or approval of the proposed project, including: (a) completion of needed environments reviews; (b) preparation and submission of necessary environmental documents; (c) scheduling and holding of a prehearing conference, and adoption of procedural schedules schedule for discovery, submission of testimony, and evidentiary hearing, among others; (d) scheduling and holding of evidentiary hearings, as required or necessary, (e) drafting of proposed decision; (f) comments on proposed decision; and (g) adoption of proposed decision, and/or alternate decision, among others.

Conclusions of Law

1. It is not possible or feasible to resolve this case within the 18-month period provided for in Pub. Util. Code § 1701.5.

2. The 18-month statutory deadline should be extended to August 31, 2020, to allow for appropriate resolution of this proceeding.

3. This order should be made effective immediately.

IT IS ORDERED that the 18-month statutory deadline in this proceeding is extended to August 31, 2020.

This order is effective today.

Dated July 26, 2018, at Sacramento, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners