

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of DCR
TRANSMISSION, LLC for a Certificate of
Public Convenience and Necessity for the
Ten West Link Project.

Application 16-10-012
(Filed October 12, 2016)

**PROTEST OF
THE OFFICE OF RATEPAYER ADVOCATES**

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I. INTRODUCTION

Pursuant to California Public Utilities Commission (CPUC or Commission) General Order (GO) 131-D, Section XII and Rule 12.6(b) of the Commission's Rules of Practice and Procedure, the Office of Ratepayer Advocates (ORA) hereby submits this Protest to DCRT, LLC's (DCRT) Application (A.) 16-10-012 for a Certificate of Public Convenience and Necessity (CPCN) for the Ten West Link Project (Proposed Project), filed with the Commission on October 12, 2016. This Protest is timely filed pursuant to GO 131-D, Section XII, because DCRT completed the notice required pursuant to GO 131-D, Section XI on October 25, 2016 as explained in DCRT's "Declaration Concerning Notice" dated October 26, 2016 and filed with the Commission in this proceeding on October 27, 2016.

The cost of transmission construction has grown substantially in California, with many major projects exceeding their original cost estimates by a significant amount.¹ DCRT's Application requests the Commission authority for an independently-owned, competitively-bid transmission project proposed for the California Independent System Operator's (CAISO) Balancing Authority Area (BAA). As such, ORA welcomes DCRT as a competitor to California's three largest investor-owned utilities with the hope that, if approved, the Proposed Project will be constructed for a cost at or below the current estimate. ORA recognizes that competition in transmission development can be critical to California meeting its future energy needs in the most cost-effective manner possible.

The Proposed Project is a 114-mile long 500 kilovolt (kV) transmission project that would extend from Delaney Substation in Tonopah, Arizona – a 500 kV facility currently under construction by the Arizona Public Services Company (APS) – to the existing Colorado River Substation west of Blythe, California, owned by Southern California Edison Company (SCE). Ninety seven (97) miles of the Proposed Project would be located in Arizona, and seventeen (17) miles would be located in California.

¹ For example, the cost estimate for the Devers-Palo Verde No. 2 Project has increased from \$545.3 million (2005 \$) as adopted in Decision (D.)07-01-040 to \$701.3 million (2005 \$), a 29% increase, per SCE's Advice Letter 2804-E.

DCRT represents that the proposed route “largely follows the existing Devers-Palo Verde (DPV) 500 kV transmission line and utilizes the established utility corridor.”² The Proposed Project is anticipated to improve reliability, generate economic savings exceeding its costs, and facilitate the development of renewable generation.

The CAISO identified the need for the Proposed Project in its 2013-2014 Transmission Plan and in July 2015 selected DCRT as the “sponsor” to construct the Proposed Project pursuant to a competitive bid. As the sponsor of the Proposed Project, DCRT is responsible for developing, permitting, designing, financing, building, owning, and operating and maintaining the Proposed Project.³ Once the Proposed Project is constructed, DCRT will become a Participating Transmission Owner (PTO) member of the CAISO, and will place the Proposed Project under the operational control of the CAISO.⁴ DCRT estimates that the total capital cost of the Proposed Project will be \$279,560,483 (2020 \$), including interconnection costs.

DCRT will file rate cases with the Federal Energy Regulatory Commission (FERC) to establish its revenue requirement to recover the costs of the Proposed Project plus a rate of return, and will be paid its FERC-approved revenue requirement through the high voltage Transmission Access Charge (TAC).

DCRT’s agreement with the CAISO requires that the Proposed Project be in service no later than May 1, 2020.⁵ DCRT seeks a CPCN from the Commission for the Proposed Project by no later than February 2018.⁶

² DCRT Application, pp. 1-2.

³ DCRT Application, p. 2.

⁴ DCRT Application, p. 3.

⁵ Pursuant to Section 25.10 of the Approved Project Sponsor Agreement, a change to this in-service date requires an amendment to the agreement, but can be agreed to in writing by parties involved without further regulatory approval.

⁶ DCRT Application, pp. 2 and 20.

II. ISSUES TO BE CONSIDERED

Upon initial review of DCRT's Application, ORA has preliminarily identified four issues to be considered, which are described briefly below. At this point, ORA has just begun its investigation of the Application, so this list is not exhaustive. ORA may identify other issues that require further discovery and analysis as the proceeding develops.

A. APPLICATION DEFICIENCIES

1. PEA Requirement and DCRT's Waiver Request

Rule 2.4(b) of the Commission's Rules of Practice and Procedure requires an applicant to submit a Proponent's Environmental Assessment (PEA) with any application proposing a project that is not statutorily or categorically exempt from the requirements of the California Environmental Quality Act (CEQA).⁷ This requirement ensures that CPUC staff has the information necessary to begin CEQA review as soon as possible, and concurrent with the consideration of need for a proposed project.

DCRT requests a waiver from this requirement to submit a PEA because environmental review is already underway through the United States Bureau of Land Management's (BLM) review of the Proposed Project for compliance with the National Environmental Policies Act (NEPA). ORA understands that CPUC staff has agreed to coordinate its CEQA review with the BLM's NEPA review such that BLM will endeavor to issue an Environmental Impact Statement (EIS) that also complies with CEQA.⁸

In light of this coordination between BLM and CPUC staff, and the facts as further described in the Application, ORA does not object to a waiver from the Rule 2.4(b) requirements in this instance, so long as the schedule permits for hearings and briefing on BLM's Draft EIS to ensure compliance with CEQA requirements, including a review of appropriate alternatives to the Proposed Project. To this end, ORA intends to participate in the EIS-development process.

⁷ CEQA is codified at California Public Resources Code §§ 21000–21189 with CEQA Guidelines at California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387.

⁸ DCRT Application, pp. 15-16.

2. Compliance With GO 131-D Section XI Notice Requirements

Section XI of GO 131-D requires specific forms of public notice of a Proposed Project to be made within ten days of filing an application with the Commission for a CPCN. DCRT filed its notice on October 26, 2016; therefore ORA's protest is timely filed.

B. PROJECT NEED

ORA will investigate the need for the Proposed Project and the assertion that the project "would provide economic benefits in excess of estimated costs."⁹ ORA will evaluate the benefit-cost ratios of the Proposed Project and the underlying assumptions used in determining the capital cost estimates. Among other things, ORA will verify the accuracy of the total cost assumptions. For example, ORA will determine if DCRT's capital cost estimate for the project includes the cost of equipment for upgrades at the Delaney and Colorado River Substations, both of which are necessary to complete the project and should be included in the cost of the project. ORA will also determine if the economic studies of the Proposed Project take into account potential impacts and their associated costs on the western interconnection under the Western Electricity Coordinating Council's (WECC) footprint. ORA raises the potential need for additional economic studies to be conducted to identify potential upgrades on impacted systems and the associated costs necessary to accommodate the Proposed Project, the outcome of which may alter the project's overall cost-benefit analysis.

Finally, the capacity benefit of the Proposed Project is calculated, in part, based on the assumption that California will be in a resource deficit by 2020.¹⁰ This assumption may be inconsistent with the Commission's 2012 Long-Term Procurement Plan adopted in Rulemaking (R.) 12-03-014 that requires a system-wide planning reserve margin of

⁹ DCRT Application, p. 7.

¹⁰ 2013-2014 Transmission Plan p. 259.

15%.¹¹ Thus, ORA questions the accuracy of the capacity benefit upon which the project's cost-benefits analysis is based.

With respect to project cost recovery, ORA will evaluate the underlying reasons for DCRT's proposal that California ratepayers would be the sole beneficiaries of the Proposed Project, and therefore, should bear the entire project cost.

ORA also will evaluate DCRT's assertion that the Proposed Project would alleviate the transmission constraint that currently restricts deliverability of renewable generation from the Imperial Valley.¹² As a result of the retirement of the San Onofre Nuclear Generating Station ("SONGS"), power flow in the Imperial Valley transmission system has changed such that any import of renewable power from that region would result in Category B and C¹³ overloads on adjacent 500 and 230 kV facilities. However, CAISO studies show that installing a flow control device on Mexico's Comisión Federal de Electricidad¹⁴ (CFE) system and modifying its system protection scheme, approximately 800 megawatts (MW) of renewable capacity could be tapped.¹⁵ This CFE upgrade was coincidentally approved as a reliability project as part of the CAISO's 2013-2014 Transmission Plan.¹⁶ CAISO studies also show that the Proposed Project would boost deliverability from the Imperial Valley region only by 200 MW. Therefore, ORA will investigate the claim that the Proposed Project would significantly alleviate the Imperial Valley deliverability constraint. In addition, the interconnection of renewable generation in the region could necessitate additional infrastructure buildout that is not yet defined or fully evaluated.

Finally, ORA will evaluate the need for the Proposed Project given that it will largely follow the existing route of the 500 kV DPV transmission line, with its current

¹¹ (D.) 13-02-015, p. 34.

¹² DCRT Application, p. 9.

¹³ NERC Transmission Planning Standard TPL-001-1.

¹⁴ Comisión Federal de Electricidad is the state-owned electric utility of Mexico, widely known as CFE.

¹⁵ 2013-2014 Transmission Plan p. 202.

¹⁶ Imperial Valley Flow Controller Project, 2013-2014 Transmission Plan, p. 6.

transfer capacity that may not be fully-utilized. While the Proposed Project asserts to bring in additional renewable capacity from the Palo Verde Trading Hub, ORA is concerned about the project's redundancy and questions whether DPV can be more fully-utilized to achieve the same goal.

For the aforementioned reasons, ORA will evaluate the DCRT's assertion of need and economic benefits of the Proposed Project. At the evidentiary hearing, ORA would present facts and law on these issues.

C. ENVIRONMENTAL REVIEW

As described in Section II.A.1 above, DCRT requests a waiver from the requirement to provide a PEA with its Application. ORA does not object so long as the schedule provides sufficient procedural safeguards (such as hearings and briefing) to confirm that BLM's EIS complies with CEQA requirements and addresses appropriate alternatives to the Proposed Project. If the BLM EIS does not comply with CEQA requirements, ORA recommends that the Commission take the necessary steps to ensure its compliance with CEQA.

Among other things, ORA is aware that DCRT's preferred route for the Proposed Project is adjacent to the existing DPV transmission line that goes through the King of Arizona National Wildlife Refuge (KOFA). Prior environmental studies have identified impacts to the Peninsular Bighorn Sheep, which appears on both federal and state endangered species lists, and whose habitat may include KOFA.¹⁷ Consequently, the EIS should consider routes that would limit the impacts on KOFA and the animal species that reside there.

ORA also observes that DCRT has identified access to renewable resources located in the Imperial Valley as a significant benefit of the Proposed Project.¹⁸ The interconnection of these resources could necessitate additional infrastructure buildout that would further create adverse environmental impacts. If one of the project goals is to

¹⁷ (D.) 08-12-058, p. 193.

¹⁸ DCRT Application, p. 2.

enable the import of renewable generation from the Imperial Valley, it would be prudent to consider the project scope in a holistic manner including all infrastructure buildout so as to lessen environmental impacts to the extent possible. To that end, ORA emphasizes the need to explore and evaluate equally-feasible project alternatives with possibly less environmental impacts.

D. On-Going CPUC Regulatory Oversight Of DCRT

In the event the Commission grants a CPCN to DCRT for the Proposed Project, DCRT will become a California investor-owned utility subject to the CPUC's jurisdiction. In recognition of this, DCRT has requested that it be exempt from the following state regulatory requirements:

- Sections V.C, V.E and V.G of the Commission's Affiliate Transaction Rules;¹⁹
- Reporting requirements under GO 65-A regarding financial statements;
- Reporting requirements under GO 77-M regarding the compensation of company officers and employees, dues, donations, and legal fees; and
- Annual reporting requirements under GO 104-A regarding the filing of annual reports.²⁰

DCRT also requests that, in issuing any CPCN, the Commission explicitly order that Energy Division be authorized to determine whether a minor project modification would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects.²¹

DCRT explains that granting it specific exemptions from the Affiliate Transaction Rules will not undermine the objectives of those rules, which are to foster competition and protecting consumer interests.²² DCRT explains that the reporting requirements from which it seeks exemption are “unnecessary and unduly burdensome” and in some cases

¹⁹ DCRT Application, pp. 27-31.

²⁰ DCRT Application, pp. 31-33.

²¹ DCRT Application, pp. 16-17.

²² DCRT Application, p. 30.

“duplicative” of reports it will be required to submit to FERC.²³ It analogizes its situation to that of Wild Goose Storage, a gas storage utility that operates under market-based rates.²⁴

While ORA appreciates that DCRT is not similarly situated to Pacific Gas and Electric Company, Southern California Edison Company, or San Diego Gas & Electric Company, and therefore certain exemptions from state regulatory requirements may be appropriate, such exemptions should be carefully considered.

DCRT’s situation is not analogous to Wild Goose Storage, which operates at market-based rates. DCRT will seek a transmission revenue requirement from FERC and will be compensated for all of its costs plus a reasonable return on its investment. Thus, while DCRT will not be subject to the CPUC’s rate regulation, the CPUC will be representing its ratepayers in FERC Transmission Owner (TO) rate cases to ensure just and reasonable rates for California retail customers. ORA is concerned that granting exemptions from the affiliate transaction reporting requirements will impede its ability to obtain relevant and accurate information to ensure that customer interests are protected. While DCRT emphasizes that it will not be providing service to retail customers due to its CAISO membership, the fact is that California’s retail customers – pay roughly 90% of the costs of CAISO transmission. Therefore, the Commission must ensure that DCRT provides critical information to both Commission staff and ORA without additional litigation.

ORA suggests that the issue of the appropriate exemptions for DCRT, as well as DCRT’s request regarding the delegation of environmental determinations to Energy Division, be subject to discovery, potentially hearings, and briefing.

III. CATEGORIZATION OF PROCEEDING AND NEED FOR HEARINGS

ORA agrees with DCRT that this proceeding should be categorized as rate-setting and that hearings will be necessary.

²³ DCRT Application, p. 32.

²⁴ DCRT Application, p. 32.

IV. SCHEDULE AND OTHER PROCEDURAL ISSUES

DCRT provides a proposed schedule in its Application, with significant dates including a draft EIS released by BLM in April 2017 and a Proposed Decision issued by January 2018.

ORA is currently reviewing the Application and accompanying Exhibits and will also conduct discovery as necessary. ORA has proposed an alternative schedule as set forth below:

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Procedural Event	DCRT Proposed Date	ORA Proposed Date
CPCN Application Submitted	October 11, 2016	October 12, 2016
Public Notice of Filing of the Application	October 21, 2016	Published in CPUC's Daily Calendar October 21, 2016
CPUC Deems Application Accepted as Complete	October 24, 2016	No later than November 14, 2016 (30 days from filing)
*GO 131-D, Section XI Notice Completed	N/A	October 25, 2016 per DCRT Declaration
Last Day for Responses and Protests	November 14, 2016	Per GO 131-D, Section XII - No later than November 28, 2016, 30 days after Notice per GO 131-D, Section XI was published
Replies to Protests Due	November 21, 2016	December 8, 2016
Draft EIS Completed	April 2017	TBD
Final EIS Completed	December 2017	TBD
Prehearing Conference	December 5, 2016	TBD
Opening Testimony (Applicant)	January 4, 2017	Should be filed after the Final EIS and PHC
Opening Testimony (Intervenors)	January 18, 2017	120 days after Applicant's Testimony
Rebuttal Testimony (Concurrent)	January 31, 2017	30 days after Intervenors' Testimony
Evidentiary Hearings	February 21-24, 2017	30 days after Rebuttal Testimony
Opening Briefs	April 13, 2017	30 days after Evidentiary Hearings
Reply Briefs	April 21, 2017	15 days after Evidentiary Hearings
Proposed Commission Decision	January 2018	TBD
Final Commission Decision	February 2018	TBD

“*” indicates where ORA has proposed a calendar item not contained in the DCRT Application.

V. CONCLUSION

ORA respectfully requests:

1. That this proceeding be categorized as ratesetting;

2. That the Commission establish a reasonable schedule for this proceeding that includes adequate time for discovery, testimony preparation, and evidentiary hearings on both the need and cost of the project and environmental issues;
3. That the scope of this proceeding include, but not be limited to, the issues identified in this protest.

Respectfully submitted,

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