

Comment Set C.215: Jacqueline Ayer

October 3, 2006

John Boccio/Marian Kadota
CPUC/USDA Forest Service
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BY:.....

Reference: Draft EIR prepared for the proposed Antelope-Pardee Segment 1 Transmission Line project

Dear Mr. Boccio and Ms. Kadota;

I have summarized below some concerns over the proposed Antelope-Pardee Segment 1 Transmission Line project described in CPUC Application No. A.04-12-007. Please consider these comments to be submitted as Draft EIR/EIS review comments due October 3, 2006.

THE PROJECT HAS BEEN IMPROPERLY SEGMENTED IN DIRECT VIOLATION OF CEQA Section A.3.1 of the Draft EIR states that SCE's purpose and need is to accommodate potential renewable power generation in the Tehachapi area, avoid overload of existing transmission facilities and comply with reliability criteria for transmission planning. In every document prepared since 2002 by SCE, the CPUC, CAISO, TCSG, and others, the planning of SCE's Tehachapi transmission infrastructure relies on completion of Tehachapi-Antelope, Antelope-Pardee, and Antelope-Vincent. The reason is simple; without Tehachapi-Antelope (Segment 3), there is no point in planning Antelope-Pardee (Segment 1) or Antelope-Vincent (Segment 2). Discussions with PUC and SCE staff reveal that the reason two smaller projects are proposed rather than one large project is because 1) SCE submitted two applications, and 2) because the developmental planning of one project was further along than the other. This argument is both specious and misleading; SCE submitted the two applications contemporaneously (Segment 1 was filed as application A.04-12-007 on December 9, 2004 and Segments 2 & 3 was filed as application A.04-12-008 on December 9, 2004) and the Draft EIRs were circulated for review within weeks of each other. The CPUC as lead agency is obligated under CEQA to consider entire projects without segmentation. The CPUC may argue that, since draft EIRs were prepared for both of the smaller projects, the environmental impacts are adequately addressed. This argument is faulty for a number of reasons:

- 1) It artificially minimizes growth inducing impacts which are only vaguely addressed in two minor paragraphs tucked away in Appendix E. Specifically, section E.1.4.3 states "the proposed project is not intended to supply power related to growth for any particular development, either directly or indirectly, and would not result indirect growth inducing impacts." This trivial conclusion is problematic for two reasons:
 - A reasonable person might consider the growth inducing impacts in the Los Angeles Basin of a single 500 kV line segment to be relatively small. However, when it is considered in addition to the 500 kV line proposed for Segments 2 and 3, the combined 1,000 kV capacity will absolutely result in "direct growth inducing impacts" in the Los Angeles basin. This is particularly true when one considers that the Tehachapi area is expected to produce more than 6,000 MW (per the ISO, CEC, and others) and much of that capacity will be transmitted along Segments 1, 2, and 3. Does the CPUC really consider the influx of several thousand megawatts to the Los Angeles basin to be non-growth inducing? An essential component of CEQA is that an entire project be considered so that individual impacts (growth-inducing or otherwise) which are not individually considerable are assessed

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cumulatively. By splitting the Tehachapi wind generation transmission line project in 2 separate components, the CPUC has flagrantly ignored the essential intent of CEQA.

- CEQA does not require that the proposed project supply power to any particular development in order to have growth inducing impacts. In other words, it is absurd to conclude that a project will have no growth inducing impacts simply because it does not support a particular development project.
- 2) It dilutes the efforts of the communities affected by these projects to comprehensively address their impacts. Leona Valley, Palmdale, Ritter Ranch and unincorporated portions of Los Angeles County will be impacted by both Segments 1 and 2, and must address both EIRs. Acton is peripherally impacted by Segment 1 (which goes along the Acton Boundary) and substantially impacted by Segment 2, and so must also consider both EIRs. If the CPUC had properly defined the project under CEQA and prepared a single project EIR, the communities of Leona Valley, Acton, Palmdale, Ritter Ranch, and other areas could have pooled their efforts and worked together to address a single EIR. A fundamental goal of CEQA is to achieve a better project through the public participation process; this goal is thwarted when the lead agency intentionally diffuses the public's efforts by improper project segmentation.
- 3) Both the Segment 1 project and the Segment 2 & 3 project rely on the 500 kV upgrade of the Antelope station, both projects include Antelope Station upgrade components, and both projects are intended to support the Tehachapi electrical generation effort. They are being proposed by the same applicant, are being processed by the same lead agency under CEQA. They are physically connected, electrically interrelated, and are being processed contemporaneously. In short, there is no logical or legal reason that these projects have been artificially bifurcated, and by doing so, the cumulative impacts of each will not be properly considered in light of the whole record.

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(Cont)

PROJECT OBJECTIVES ARE TOO NARROWLY DEFINED

In Section A.3.2, a stated project objective is to comply with CPUC Decision 04-06-010, which mandates the first phase of Tehachapi transmission upgrades consisting of Segments 1, 2, and 3. CPUC's Decision 04-06-010 is motivated by achieving certain energy goals which are not articulated in the EIR, but which lie at the heart of all energy generation and transmission planning projects. However, by artificially constraining the project objective to narrow goals (such the installation of a 500 kV transmission line), the EIR effectively eliminates from consideration any alternatives which achieve the underlying energy goal without the 500 kV line. Through a combination of in-situ generation within SCE's customer base, conservation measures, and the location of alternative generation sources that are located in closer proximity to the end-users, these energy goals can in fact be met without transmission line construction and substantial impacts on communities located in North Los Angeles County.

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Limiting the project goal to construction of a 500 kV line for Segment 1 is too narrow and constrained for other reasons as well. For example, if we correctly assume that the actual project objective is to bring Tehachapi wind power to the LA Basin, and we recognize that the TCSG, CEC, ISO and CPUC anticipate the Tehachapi power will be shared by SDG&E, PG&E, and SCE (per April 2006 TCSG Second Report and other documents) then we can correctly conclude that SCE will not obtain more than 2,500 MW of Tehachapi power. As stipulated in CPUC Decision 04-06-010, SCE asserts that such a load can easily be handled by double circuit 230 kV lines. Of course, since the project objective is so narrowly defined, such alternatives will never be considered.

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This issue will be discussed in greater detail in the comments that I will provide on the Draft EIR prepared for Segments 2 and 3.

BASIS FOR REJECTING ALTERNATIVES

There is substantial concern that the USDA Forest Service (who is a caretaker of the lands potentially impacted by the project) also serves as Lead Agency under NEPA. Indeed, Alternative 5 was developed after the scoping period ended simply in response to the Forest Service's demand that an alternative be developed which has virtually no impact to Forest Service land. None of the residents impacted by Alternative 5 had the opportunity to help shape the project through the scoping and PEA review process, nor were they notified prior to the Draft EIR preparation. In fact, the residents had only two months to react and respond to the Project instead of the two years that this process should have provided. All of this occurred simply because the Forest Service used its position as Lead Agency to change the project's course after the initial public comment period ended. Ironically, NEPA does require public scoping and coordination with the impacted communities prior to development of the EIR/EIS, while CEQA does not. As Lead Agency under NEPA, the Forest Service was aware of this requirement and should have acted accordingly before the scoping period ended. The Forest Service has not acted properly in executing their duties under NEPA, and there is substantial concern that the Forest Service will not give proper weight to the various alternatives in the final selection process.

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FLAWS IN DISCUSSION OF THE NO PROJECT ALTERNATIVE

The Draft EIR provides very little discussion of the No Project Alternative presented in Section B.4.6. The EIR concludes that, without Segment 1, the Project Objective of bringing in a 500 kV line will not be met, which will jeopardize SCE's RPS goal of 20% renewable. The simple fact is that SCE already achieves a 17% renewable operating profile, and already obtains more than 600 MW of wind power from Tehachapi. With the construction of double circuit 230 kV lines, another 2,500 MW of Tehachapi power can also be transported by SCE (as discussed above). Since this is the limit of Tehachapi production that SCE will obtain anyway (because the 6,000 MW claimed by ISO must be shared among PG&E, SCE and SDG&E), then this is a "no project" alternative that should have been considered but was not.

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The discussion also concludes that, if Segment 1 is not constructed the proposed wind projects in Tehachapi will be canceled or must find alternative transmission options to connect to SCE's customer base. However, if the project objectives had been properly defined in terms of LA Basin energy needs rather than SCE transmission needs, then the capacity of the currently planned wind projects in Tehachapi would be properly identified and could revert to PG&E usage, thus no additional transmission lines to the LA Basin would be required.

Finally, the No Project Alternative concludes that, without the 500 kV line, the plan recommended by the TCSG would not be fully implemented. The TCSG just released their second study (April 2006) which clearly indicates that SCE must share the 4,400 MW Tehachapi production anticipated by TCSG with PG&E and SG&E. Even if SCE only gets half (or 2,200 MW of which they already have 600 MW) there is no real need for a 500 kV line on Segment 1, since SCE already asserts that a double circuit 230 line will be adequate for 2,500 MW. This is another "no project" alternative that should have been considered but was not.

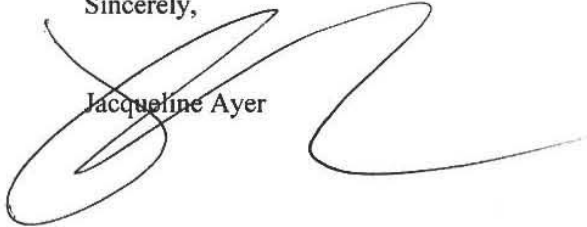
Incidentally, the TCSG study does reflect 4,400 MW, while the ISO just declared a 6,000 MW capacity for the Tehachapi wind generation capacity. All of these numbers are highly suspect, since they are based on wind generator claims and have not been carefully scrutinized. Certainly, the Kern County Planning Department (who will approve these wind projects) is unaware of some of these claims. The

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notion that the Tehachapi wind farms will be able to produce a clean and continuous 6,000 MW power stream is fairly unbelievable.

While there are numerous other issues of concern regarding the referenced document, I have no more time to address them here. Thank you for your time and consideration

Sincerely,



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Response to Comment Set C.215: Jacqueline Ayer

C.215-1 The proposed Project is part of the conceptual transmission plan recommended by the Tehachapi Collaborative Study Group (TCSG) to provide transmission upgrades for near-term and long-term development of wind energy in the Tehachapi and Antelope Valley areas. While the Antelope-Pardee Transmission Project and Segments 2 and 3 are part of this conceptual transmission plan, they are separate projects. As described in Section A.4 of the EIR/EIS, the two projects have different objectives and are independent in both construction and operation. The Antelope-Pardee project would relieve a specific existing thermal overloading problem that needs to be addressed in the near term to allow planned wind energy projects north of Antelope Substation to deliver wind power. Segments 2 and 3 would provide additional transmission capacity for potential future development of wind energy projects and has been defined as a separate project from Antelope-Pardee in CPUC Docket I. 00-11-001. The Antelope-Pardee Transmission Project has independent utility in that it has its own distinct purpose and is not dependent on other pending or planned projects for its complete construction and operation. Similarly, other projects, such as Segments 2 and 3, are not dependent on Antelope-Pardee for their construction or operation. One project does not lead to another in that the construction of the Antelope-Pardee project does not lead to the construction of Segments 2 and 3.

With respect to growth-inducing impacts, Section E.1.4.3 of the Draft EIR/EIS states that “the proposed Project could facilitate growth indirectly in the southern California area through the additional increased capacity available...Therefore, the additional available capacity could be considered growth inducing.” Cumulative impacts are addressed in Section C.X.13 of each issue area analysis, where “X” is between 2 (Air Quality) and 15 (Visual Resources).

C.215-2 Section A.3 provides a detailed explanation of the objectives for the applicant and each agency. We believe that the intent of NEPA has been achieved in that an agency’s definition of objectives need follow only a rule of reason in preparing an EIS, and a rule of reason extends both to alternatives the agency must discuss, as well as the extent to which it must discuss them. Similarly, the intent of CEQA has been achieved in that a clearly written statement of objectives has been provided that helped the lead agency develop a reasonable range of alternatives to evaluate in the EIR (CEQA Section 15124(b)). A number of alternatives were identified during the Scoping process to avoid the impacts of SCE’s proposed Project. Please see General Response GR-4 regarding the alternatives identification process for the Project.

C.215-3 The Council on Environmental Quality (CEQ), Section 1501.7, defines scoping as a “process for determining the scope of issues to be addressed and for identifying significant issues related to a proposed action.” Per the Forest Service Environmental Policy and Procedures Handbook (FSH 1909.15), Chapter 10, Section 11, “[s]coping includes refining the proposed action, determining the responsible official and lead and cooperating agencies, identifying preliminary issues, and identifying interested and affected persons. The results of scoping are used to identify public involvement methods, refine issues, select an interdisciplinary team, establish analysis criteria, and explore possible alternatives and their probable environmental effects.” As such, the identification of possible alternatives is a result of the scoping process.

As noted in the April 30, 1981, Council on Environmental Quality memorandum on scoping guidance, scoping is a process, not an event or a meeting. It continues throughout the planning

for an EIS, and may involve a series of meetings, telephone conversations, or written comments from different interested groups. Because it is a process, participants must remain flexible. The scope of an EIS occasionally may need to be modified later if a new issue surfaces, no matter how thorough the scoping was. But it makes sense to try to set the scope of the statement as early as possible.

CEQ further states, since the key purpose of scoping is to identify the issues and alternatives for consideration, the scoping process should “end” once the issues and alternatives to be addressed in the EIS have been clearly identified. Normally, this would occur during the final stages of preparing the draft EIS and before it is officially circulated for public and agency review.

Please see General Response GR-5 regarding noticing procedures and the review period for the Draft EIR/EIS. Also see General Response GR-4 regarding the alternatives identification process for the Project, including the screening process used for alternatives eliminated from further analysis in the EIR/EIS. With regard to the “final selection process”, after the completion of the Final EIR/EIS, the Forest Service will issue a Record of Decision (ROD), which documents the Forest Service decision on whether to approve authorizing a Special Use Easement (and possibly temporary special use permits for construction) as proposed, approve an alternative to the proposed action, or deny SCE’s application and the rationale for that decision. This ROD is subject to administrative review and may be appealed under 36 CFR 215.

C.215-4 This EIR/EIS includes analysis of a No Project/Action alternative for each resource (See Section C). This comment appears to indicate that there are several “no project” alternatives. CEQA and NEPA require the discussion of the No Action/Project alternative, but it is one alternative and not several. The No Action analysis provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives. As provided in question 3 of *Forty Most Asked Questions Concerning CEQ’s NEPA Regulations*, No Action would mean the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward. Therefore, under the No Project/Action Alternative, the Forest Service would deny SCE’s special use application and the Project would not be constructed. No amendments would be necessary to the Forest Land Management Plan to implement this alternative.

Section B.4.6.2 of the Draft EIR/EIS states that one of the reasonably expected events or actions of the No Project/Action Alternative would be that “[t]he requirements of the Renewables Portfolio Standard (RPS)...may not be achieved as access to renewable energy from the Antelope Valley-Tehachapi region would either not be provided or would be delayed” (Bullet #1). While SCE’s renewable profile may be close to reaching the RPS goal, other retail sellers of electricity, such as PG&E and LADWP, will need access to renewable energy to meet their 20 percent goal by 2010, which SCE would be able to provide.