



California Public Utilities Commission



May 29, 2024

VIA EMAIL

Dustin Joseph
LS Power
16150 Main Circle Drive, Suite 310
Chesterfield, MO 63017

Re: CPUC Review of Proponent's Environmental Assessment for LS Power Grid California, LLC's (LSPGC) Power Santa Clara Valley Project (Application 24-04-017)

Dear Mr. Joseph:

The California Public Utilities Commission (CPUC) Energy Division California Environmental Quality Act (CEQA) Unit has conducted a review of LS Power's Application (24-04-017) for a Certificate of Public Convenience and Necessity (CPCN) and related Proponent's Environmental Assessment (PEA) for LS Power's proposed Power Santa Clara Valley Project (Project) filed with the CPUC on April 29, 2024.

Section 15100 of CEQA requires the agency responsible for the approval of a proposed project to assess the completeness of a project proponent's application. The Energy Division uses CPUC's Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments (November 2019) as the guide for determining adequacy of project applications.

After reviewing LS Power's application for the Project, the Energy Division finds that the PEA does not contain sufficient information to satisfy the CPUC's Information and Criteria List and deems the CPCN application incomplete. The Energy Division is requesting supplemental information (see Attachment 1, Deficiency Report) in order for the application to be deemed complete. Information provided by LS Power in response to the Energy Division's finding of deficiency should be filed to supplement the Application 24-04-017. The CPUC requests that LS Power respond to this letter within 60 days or explain in writing to the CPUC why it is unable to do so, including an estimate of when LS Power will be able to correct the deficiencies.

The Energy Division may request additional data, as necessary, to prepare a complete and adequate analysis of the potential environmental effects of the proposed Project in accordance with the requirements of CEQA.

Please do not hesitate to call me at (916) 594-4699 if you have any questions.

Sincerely,

Tharon Wright

Tharon Wright
Project Manager for the Power Santa Clara Valley Project
Energy Division

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The CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies.



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cc: Roxanne Henriquez, CPUC
Valisa Nez, ESA
Michael Manka, ESA

Attachment:

- 1) Deficiency Report

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PROPONENT'S ENVIRONMENTAL ASSESSMENT (PEA) REVIEW DEFICIENCY REPORT

LSPGC Power Santa Clara Valley Project (Application 24-04-017)

Review of the Application and PEA for the Power Santa Clara Valley Project (Application 24-04-017) was based on the CPUC's Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments (November 2019). Based on these criteria, the following additional information is needed in order to deem the application and PEA complete.

Coversheet

No comments.

Table of Contents

No Comments.

Chapter 1: Executive Summary

No comments.

Chapter 2: Introduction

No comments.

Chapter 3: Proposed Project Description

No comments.

Chapter 4: Description of Alternatives

No comments.

Chapter 5: Environmental Setting and Impact Assessment Summary

5.1 Aesthetics

1. Identify methodology and assumptions for completing the visual simulations.

5.2 Agriculture and Forestry

No comments.

5.3 Air Quality

1. Please revise the Project's Health Risk Assessment (HRA) to include the following:
 - a. Annual average PM2.5 concentration (including fugitive dust)
 - b. Complete an HRA analysis for staging areas (analysis can be either qualitative or quantitative)

5.4 Biological Resources

1. Confirm if the project is covered by the Santa Clara Valley Habitat Conservation Plan (HCP).

5.5 Cultural Resources

Deficiencies

1. Please evaluate all isolated resources and all resources that have not been previously evaluated for the California Register using their evaluation criteria and assess archaeological resources for eligibility as a potential unique archaeological resource.
2. Please include a table that describes the final eligibility of all resources within the Project Area following the record search, survey, and evaluations.
3. The impact analysis does not include all eligible resources that were previously described in the PEA as located within the Project Area. All historical resources, assumed historical resources, and unique archaeological resources that are within the Project Area need to be analyzed for potential Project impacts.

Data Request

1. Please provide site records, reports, and GIS data for everything identified in the cultural resources report's confidential Appendix F: Figure 6 (Previous Reports), Figure 7 (Previously Recorded Resources), and Figure 8 (Survey Results). The chain of custody should be archaeologist to archaeologist.
2. Please provide copies of all tribal consultation letters and responses from Tribes.
3. There is no analysis of potential Project impacts to resources within the Project Area based on the specific Project components or impact types anticipated. It is unclear how the mitigation would minimize impacts to known eligible resources within the Project Area. Please revise accordingly.
4. There seems to be some confusion as to what is an historical resource and what is an archaeological resource pursuant to §15064.5. Historical resources are resources that are eligible or listed on the California Register and/or the National Register. These can be archaeological or architectural. It is recommended that impact analysis in the PEA under criterion 5.5a, explicitly addresses potential impacts to historic-era architectural or built historical resources and that impact analysis under criterion 5.5b, explicitly addresses potential impacts to archaeological historical resources and/or unique archaeological resources.

5. P-43-000189, which is only discussed in the TCR section, is also an archaeological historical resource and should be included in the impact analysis under impact criteria 5.5b in the Cultural Resources section.
6. Page 5.5-8 states, “Unanticipated resources may be discovered during ground-disturbing activities, which would then need to be evaluated into order to assess Proposed Project impacts”. This is deferred mitigation, which is why inadvertent discovery and monitoring mitigation measures are established. If Project impacts to potential historical resources would not be mitigated by the APMs, then the impacts to these resources may be considered Significant and Unavoidable.
7. APM Cul-2: Archaeological and Native American Monitoring and APM TCR-2: Native American Monitoring are contradictory. It is recommended that one APM be developed that works for both archaeological and tribal monitoring or, alternatively, separate archaeologist-led monitoring from tribal monitoring.
8. APM TCR-2 states: “Prior to construction, LS Power shall confer with a designated Tribal representative on the appropriate course of action to be taken should unanticipated cultural materials, and specifically human remains, be discovered during construction.” The human remains statement in this APM is not legal. If human remains are found, you must follow PRC § 5097.98 and call the coroner. The coroner decides if the human remains are Native American or not and then contacts the Native American Heritage Commission, who identifies the Most Likely Descendant (MLD). The MLD is the individual who recommends what to do with human remains and grave goods. A single ‘designated Tribal representative’ cannot determine the disposition of human remains and grave goods over an area that covers multiple tribal territories.
9. The monitoring APMs only recommend monitoring around known archaeological resources and do not address the high potential for unknown cultural resources to be impacted by the Project. Recommend including monitoring for areas with a high potential for unknown archaeological resources/TCRs.
10. APM CUL-4 does not explain how newly identified resources would be avoided or evaluated and treated. This needs to be explicitly explained with step-by-step instructions to avoid issues with deferring mitigation.

5.6 Energy

No comments.

5.7 Geology, Soils, and Paleontological Resources

1. Provide data on depth of excavation and amount of soil movement.

5.8 Greenhouse Gas Emissions

No comments.

5.9 Hazards, Hazardous Materials, and Public Safety

No comments.

5.10 Hydrology and Water Quality

No comments.

5.11 Land Use and Planning

No comments.

5.12 Mineral Resources

No comments.

5.13 Noise

No comments.

5.14 Population and Housing

No comments.

5.15 Public Services

No comments.

5.16 Recreation

No comments.

5.17 Transportation

1. identify potential transit stop closures during construction and operation.

5.18 Tribal Cultural Resources

1. Provide copies of all correspondence between PanGIS/LS Power and tribes.
2. Provide maps and/or documentation of areas described by the tribes as sensitive for the TCRs.
3. APM CUL-2 and APM TCR-2 are contradictory, revise these measures accordingly.

5.19 Utilities and Services Systems

No comments.

5.20 Wildfire

No comments.

5.21 Mandatory Findings of Significance

1. The impact conclusions are not adequately supported by data for cultural resources. Although maps are provided in the confidential cultural report and show general locations where sites have been identified as listed or determined eligible are adjacent or within the project area, some of the sites are listed as unevaluated and no data records are included. Please provide the cultural resources records requested above.

3.18.3 Cumulative Impacts

No comments.

Chapter 6: Comparison of Alternatives

No comments.

Chapter 7: Cumulative Impacts and Other Considerations

No comments.

Chapter 8: List of Preparers

No comments.

Chapter 9: References

1. Provide electronic copies of references.