

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



July 22, 2016

Ms. Rebecca W. Giles
San Diego Gas and Electric Company
8326 Century Park Court, CP32-F
San Diego, CA 92123-4150

**RE: Application Completeness – Permit to Construct the TL 695 and 6971
Reconductoring Project – Application No. A.16-04-022**

Dear Ms. Giles:

The California Public Utilities Commission's (CPUC) Energy Division CEQA Unit has completed its second review of San Diego Gas and Electric Company's (SDG&E) Application (A.16-04-022) and related Proponent's Environmental Assessment (PEA) for a Permit to Construct (PTC) the TL 695 and TL 6971 Reconductoring Project.

Section 15100 of the California Environmental Quality Act (CEQA) requires the agency responsible for the certification of a proposed project to assess the completeness of the project proponent's application. The Energy Division uses CPUC's Information and Criteria List and PEA Checklist as the guide for determining the adequacy of project applications.

Following completion of the CPUC's first review of the application and PEA, the CPUC provided SDG&E with Deficiency Report #1 on May 24, 2016, which identified deficiencies and information needed to prepare a CEQA document in a timely manner. SDG&E submitted written responses and supplemental information identified in Deficiency Report #1 on June 24, 2016.

The CPUC reviewed the material submitted by SDG&E and has found that SDG&E's application remains incomplete. While many of SDG&E's responses were complete, several responses were not addressed adequately or in full. This letter contains Deficiency Report #2 and identifies key issues that must be addressed in order for the CPUC to deem the application complete. The following list identifies the portions of the application found to be deficient:

- 1. Information Necessary to Complete an Adequate CEQA Document for Public Review is Marked Confidential.** CEQA documents are public disclosure documents "explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects" (CEQA Guidelines 15149(b)). Under CEQA, the CPUC is required to "find out and disclose all that it reasonably can" to the public in a CEQA document (CEQA Guidelines Section 15144). Exceptions to public disclosure requirements under CEQA include trade secrets (PRC Section 21160), and location of archaeological sites and sacred lands and information about tribal cultural resources (CEQA Guidelines Section 15120(d), PRC Section 21082.3(c)).

SDG&E submitted confidential materials under Public Utilities Code Section 583 and General Order 66-D, including the Biological Technical Report (BTR), GIS data, geotechnical report, and all of the cultural resources reports. With the exception of the location data contained in the cultural reports (CEQA Guidelines Section 15120(d)), information contained in these materials must be presented in the CEQA document to provide the public with an accurate disclosure of the environmental setting and environmental impacts caused by a proposed project (*Cadiz Land Co. v. Rail Cycle* (2003) 83 Cal.App. 4th 74, 87 [“Without accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the [EIR] adequately investigated and discussed the environmental impacts of the development project.”]).

Limiting the public disclosure of information contained in these supporting materials inhibits the CPUC from fully complying with CEQA. The PEA sections, including the biological resources section, cultural resources section, and geology and soils sections provide some discussion and summarizes information in the reports; however, these sections do not include all of the evidence needed to support the conclusions made. For example, the biological resources PEA section includes several references to the BTR to illustrate locations of resources and additional resource information needed to support the PEA conclusions; however, the BTR is not currently provided in a format that is accessible to the public. The cultural resources section of the PEA provides extremely limited information and the APMs and analysis cites and depends on the content of the cultural resources reports that are listed as confidential. The analysis in the PEA does not provide the public adequate information to meaningfully understand and comment on the project’s impacts or to comment on the effectiveness of the protection measures.

Please provide the CPUC with information that can be disclosed in the CEQA document at the level of detail provided in the BTR, the cultural resources reports (with the understanding that resource locations and maps are always confidential per CEQA Guidelines Section 15120(d), PRC Section 21082.3(c)), and the geotechnical report. The information presented in the PEA sections, alone, are insufficient in detail. Please clarify that only the GIS files themselves must not be publicly distributed and that any mapping from the information in those files can be presented in the publicly available CEQA document. CPUC must be able to create and disclose detailed project maps.

2. **Provide Right-of-Way GIS.** SDG&E provided their easements for TL 695 and 6975 in response to Deficiency Report #1; however, GIS data was not provided to support the easements. Provide GIS showing the boundaries of SDG&E’s rights-of-way for all components of the proposed project.
3. **Provide the Results from Federal Aviation Administration’s Notice Criteria Tool.** SDG&E noted in response to Deficiency Report #1 that “noticing of the Project poles to the FAA is not required” following a search of the Federal Aviation Administration’s Notice Criteria Tool (NCT). Provide the results of the

NCT for verification.

4. **Provide Cultural Resources GIS.** Deficiency Report #1 contained a request for cultural resource survey areas; however, these areas were not provided in SDG&E's response. Provide GIS data of all cultural resource survey areas from all cultural resource surveys. Additionally, the cultural resource sites provided by SDG&E in Deficiency Report #1 do not have the same boundaries as the cultural resource sites provided in Appendix 4.5-A of the PEA. Provide the GIS data of the cultural resource site boundaries shown in the maps in Appendix 4.5-A of the PEA, and provide an explanation why the two sets of cultural resource site boundaries differ.
5. **Provide Cultural Resource Eligibility Determinations.** SDG&E noted in response to Deficiency Report #1 that eligibility determinations were presented in Table 4 of Appendix 4-A of the PEA. However, the table shows that four (4) resource sites within area of project impact (CA-SDI-6692, CA-SDI-6693, CA-SDI-17545, and CA-SDI-20768) have not been evaluated. These sites are located within access roads that would be used using project construction. Use of heavy equipment on these roads could damage resources within these sites. Since the court decision was issued for *Madera Oversight Coalition, Inc. v. County of Madera*, the CPUC has required that all resources that are within the project area of effect and cannot be entirely avoided, be tested for eligibility for listing on the California Register of Historic Resources (CRHR) or National Register of Historic Places (NRHP) and the eligibility determination be presented in the CEQA document. Please provide the eligibility determinations for resources CA-SDI-6692, CA-SDI-6693, CA-SDI-17545, and CA-SDI-20768.
6. **Provide Paleontological Resources Record Search.** In Section 4.5 of the PEA, SDG&E states that a paleontological resources records search was performed by Paleo Solutions with the San Diego Natural History Museum. Provide a copy of the records search, including any reports and GIS included with the records search.
7. **Provide Description of Geologic Formations and their Paleontological Sensitivity.** Section 4.5 of the PEA does not include a description of the geologic units in the project area, fossils previously found within those geologic units, and the paleontological sensitivity of each geologic unit. This information is needed to evaluate potential impacts on paleontological resources within the proposed project area. Provide a description of the geologic units in the project area, paleontological resources previously found within those geologic units, and the paleontological sensitivity of each geologic unit.

Information provided by SDG&E in response to the Energy Division's finding of deficiency should be filed as supplements to Application A.16-04-022. One set of responses should be sent to the Energy Division and one to our consultant Panorama Environmental, in both hardcopy and electronic format. We request that SDG&E respond to this report no later than August 22, 2016. Upon receipt of this information, we will review it within 30 days and determine if it is adequate

to accept the PEA and amended application as complete. We will be available to meet with you at your convenience to discuss these items.

The Energy Division reserves the right to request additional information at any point in the application proceeding and during subsequent construction of the project should SDG&E's PTC be approved.

Please direct questions related to this application to me at 415-703-2642 or william.maguire@cpuc.ca.gov.

Sincerely,

/s/ William Maguire
Project Manager
Energy Division, CEQA Unit

cc: Mary Jo Borak, Supervisor
Marcelo Poirier, CPUC Attorney
Tania Treis, Project Manager, Panorama Environmental
Susanne Heim, Project Manager, Panorama Environmental