



James P. Avery
Senior Vice President
Power Supply

8330 Century Park Court
San Diego, CA 92123-1530

Tel: 858.650.6102
Fax: 858.650.6106

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Via Electronic Submission

Lamont Jackson
Office of Electricity Delivery and Energy Reliability
Mail Code: OE-20
U.S. Department of Energy
1000 Independence Avenue S.W.
Washington, D.C. 20585
Lamont.Jackson@hq.doe.gov

Re: San Diego Gas & Electric Company's Comments In Response To The Office Of Electricity Delivery And Energy Reliability's February 27, 2012 Request For Information

San Diego Gas & Electric Company ("SDG&E") appreciates the opportunity to provide comments in response to the Office of Electricity Delivery and Energy Reliability's ("OE") Request for Information ("RFI"), published in the Federal Register on February 27, 2012 (77 Fed. Reg. 11,517). SDG&E strongly supports the OE's and the Rapid Response Team for Transmission's ("RRTT") efforts to improve the overall quality and timeliness of electric transmission infrastructure permitting, review, and consultation on both federal and non-federal lands.

Introduction

SDG&E is a California corporation with its principal place of business at 8330 Century Park Court, San Diego, California. SDG&E is a public utility with a franchised distribution service territory and is engaged in the transmission of electricity under the jurisdiction of the Federal Energy Regulatory Commission ("FERC") and the distribution and retail sale of electricity under the jurisdiction of the California Public Utilities Commission ("CPUC"). SDG&E's distribution service area spans 4,100 square miles in California, providing electricity at retail to approximately 3.5 million consumers through 1.4 million electric meters in San Diego and Orange Counties. SDG&E currently owns 1,850 circuit-miles of 500 kV, 230 kV, 138 kV and 69 kV transmission facilities and is in the process of building the Sunrise Powerlink ("Sunrise"), a 117 mile 500 kV/230 kV transmission line between the Imperial Valley and the San Diego load center. SDG&E also owns 707 MW of gas turbine and combined cycle generating capacity within the San Diego area and 849 MW of nuclear and combined cycle generating capacity outside the San Diego area.

SDG&E's Comments

SDG&E strongly supports the efforts that have been and are being made to make it faster and simpler to build transmission lines on federal and non-federal lands. In particular, SDG&E applauds the

execution of a Memorandum of Understanding (“MOU”) among nine federal departments and agencies in October 2009 which strives to reduce the amount of time required to navigate the federal permitting process for transmission lines through, among other things, (1) designating a single federal point-of-contact for all federal approvals; (2) facilitating coordination and unified environmental documentation among project applicants, federal agencies, states, and tribes involved in the siting and permitting process; (3) establishing clear timelines for agency review and coordination; and (4) establishing a single consolidated environmental review and administrative record. The creation of the RRTT and designation of seven transmission line “pilot projects” that will undergo “fast-tracked” permitting should also be commended. These are important steps that will help further the modernization of the nation’s transmission grid and reduce grid congestion, increase reliability, and provide efficient access to vast renewable energy sources.

SDG&E has extensive experience working with both federal and state (California) agencies to permit transmission facilities. Most recently, SDG&E obtained approval from more than 28 federal, state, and local agencies for Sunrise, a new 500 kV/230 kV transmission line in California that will improve grid reliability, reduce energy costs to consumers, and provide access to renewable energy resources. Sunrise was in environmental review, permitting and development for over 5 years, and it is now nearing the completion of its additional two year construction phase, taking a total of over 7 years to get approved and constructed. SDG&E also recently completed the permitting process for a 52-mile 230 kV transmission line that required several state and federal approvals, including from the Department of Defense.

While SDG&E’s experience with permitting Sunrise and other transmission facilities generally predates the October 2009 MOU and creation of the RRTT, SDG&E’s experiences have nevertheless provided insight on the concerns and questions OE raised in its RFI related to potential problems posed by “Incongruent Development Times,” defined as the difference in development times between generation and transmission. *See* 77 Fed. Reg. at 11,517-18. Further, SDG&E has transmission projects that—like a number of transmission projects across the country—are currently in the implementation and construction phase, which also requires continued and extensive involvement from state and federal agencies and can affect development timelines. In light of these experiences and the questions raised in the RFI, SDG&E provides below general responses to the questions posed in the RFI.

Challenges Created By Incongruent Development Times

As the RFI notes, “[w]hile most types of electric generators can be developed within a few years, developing the transmission necessary for that generation may take much longer. The differential in development times between generation and transmission creates a Catch-22 that inhibits the development of both.” 77 Fed. Reg. 11,517. This “Catch-22” has the potential to impact every stage of development, from applying for and securing the necessary permitting and siting, to obtaining sufficient financing.

The predictability and consistency of process are critical driving factors when it comes to developing transmission lines, particularly those that extend long distances. The process factors impacting the development of generation infrastructure can often be, by comparison, more limited and predictable given that the geographic (and thus regulatory) scope of generation is usually relatively confined. Accordingly, one of the ways to eliminate uncertainty in the development of generation infrastructure is to have a more stable and predictable process for developing transmission lines.

To enhance the stability and predictability associated with developing transmission lines, agencies should, in addition to considering what efforts that can be undertaken to augment a streamlined permitting process, also evaluate whether there are steps that could improve the efficient implementation of transmission projects once permitting is complete and construction has begun.

Strategies That Could Further Reduce The Time That Federal Agencies Require For Evaluating Regulatory Permits For Transmission

In light of SDG&E's experiences, streamlining the permitting process through facilitating coordination between federal, state, tribal, and community interests can be ensured best through adopting both a proactive and predictable permitting management approach for transmission projects. First, there generally seems to be an inverse correlation between the degree of active involvement by permitting agencies and the time it takes to complete the permitting process. The more actively engaged permitting agencies are (and the earlier they become involved), the quicker the process is. Structurally, the permitting process would seem to have the most streamlining potential if at the outset of a large transmission project—upon the initial filing of an application—a Project Manager is identified to serve as the single point of contact in leading an interagency (federal, state, and tribal) "Project Team" responsible for developing permitting milestones, ensuring these milestones are met, regularly reporting on progress, and securing the engagement of all interested stakeholders early on. The aggressive and proactive engagement of all interested agency stakeholders—and at all levels of their respective organizations (i.e., top-down and laterally)—can best ensure that siting and permitting proceeds as quickly as possible while simultaneously ensuring that each permitting agency carries out its legal duties and essential review functions. In terms of specific strategies to further reduce the time associated with evaluating regulatory permits for transmission facilities, SDG&E suggests the following:

- Initiate the Section 106 process under the National Historic Preservation Act as soon as possible to facilitate the maximum opportunity for tribal input and consultation at the inception of and throughout the planning and permitting process;
- Coordinate, share, and combine resources and data in conducting environmental and resource analyses;
- Ensure consistency and coordination in the development and preparation of environmental impact statements, a best practices manual, and other appropriate guidelines;
- Provide for the early and ongoing involvement of state, local, community, non-governmental organization, public, energy company, and utility interests through public meetings and stakeholder sessions to benefit and inform the process of developing and preparing environmental impact statements or any other guidelines for transmission projects;
- Interagency sharing of all project documents;
- Employ Geographical Information Systems (GIS) staff, technical expertise, and products to assist all agencies and the Project Team in the development of documents associated with transmission projects; and
- Seek to have, to the extent possible, interagency team members with experience and expertise in statutes, regulations, and processes applicable to transmission development and construction.

In addition to using interagency Project Teams to keep track of the permitting process for specific projects, a greater degree of predictability can be achieved through enhanced consistency in the aggregate regulatory regime that will apply to transmission projects. The permitting process is simplified when permitting agencies' rules and regulations are aligned as between different federal agencies, federal and

state agencies, and across similar projects. A good example where further alignment of policies and agency interpretation would be constructive are various requirements necessary to protect non-listed nesting migratory birds during construction under state and federal law.

Further, some consistency can also be achieved through adopting a broader federal role in certain decisions. For example, some projects with a limited federal nexus may be required to undergo both Section 7 and Section 10 consultation under the Endangered Species Act (ESA) because the federal permitting agency is unwilling to “federalize” the entire project for ESA purposes. The result is that a project may be required to prepare a Habitat Conservation Plan for one part of the project, in addition to fulfilling the Section 7 consultation process for a separate part of the project—effectively duplicating efforts for the same species (as well as the involved agencies), but dividing the analyses along biologically-insignificant jurisdictional lines. The permitting process would often be streamlined if there were greater flexibility in utilizing the Section 7 process for an entire project anytime there is a federal nexus.

Lastly, while the reality is that electric transmission projects are frequently controversial; resulting in public criticism of, and threatened litigation against, the permitting agencies, the fear of litigation has at times resulted in an overabundance of caution in imposing requirements on applicants and otherwise permitting projects. Providing additional guidance and support on the discretion permitting agencies have under the federal environmental and resource protection laws when reviewing and approving transmission and generation facilities could be another way to ensure a more stable and predictable permitting process.

Other Potential Steps That Could Address The Challenges Created By Incongruent Development Times

SDG&E strongly encourages the OE and RRTT to consider potential ways to overcome the problems of Incongruent Development Times beyond “improving the efficiency of permitting and approving transmission.” 77 Fed. Reg. 11,518. Permitting-related cost, delay and uncertainty occurs not only prior to permit issuance, but also after projects have been approved and during construction. This is because most permits impose post-issuance obligations such as the development of various plans and procedures that require further agency review and discretionary approval. For this reason, once the permitting process is complete, the implementation and construction of transmission projects requires the continuing coordination between all agencies involved for a substantial period of time—typically at least two years depending upon the size of the project. During this phase of transmission development, extensive interaction between all permitting agencies and the applicant must occur, and the efficiency of this process has a direct bearing on the time it takes to complete transmission lines. Thus, after the permitting process is complete, it is important to maintain a cohesive and coordinated interagency Project Team to ensure the stable and predictable implementation of the project until it is constructed.

The importance of interagency consistency (especially with respect to mitigation measures) during this phase of transmission development can be further illustrated by Sunrise where SDG&E is implementing the most rigorous environmental mitigation measures ever placed on a transmission line in California history. Specifically, SDG&E is implementing 350 mitigation and conservation measures and permitting conditions requiring nearly 1,000 separate tasks, many of which are completely unique to Sunrise and have not been applied to any other projects. In fact, Sunrise has trained over 400 environmental monitors and typically deploys more than 140 of them on the project to ensure environmental compliance on an average day. And because Sunrise has the most conservative and protective construction “black outs,” during which no construction is to occur, there are only approximately 10 weeks out of the year (between mid-September and the beginning of December) during which there is no black out on some part of the line. These measures pose unprecedented challenges in

coordinating (and maintaining the schedule for) the construction of Sunrise. Environmental protection and proper mitigation are of the greatest importance to SDG&E, however, eliminating duplicative mitigation requirements and executing interagency Project Team review would afford agencies an opportunity to examine and evaluate the aggregate mitigation and regulatory requirements that a project must satisfy and develop consistent and comprehensive interpretations that offer a higher degree of predictability and stability in each resource area.

Further, as with any large-scale construction project, there may be instances where an opportunity to further mitigate a project's impacts (or a need to slightly modify a project's design) is realized during the implementation phase. A process that allows all of the permitting agencies involved to efficiently evaluate and, if warranted, approve minor project adaptations would be advantageous to all parties.

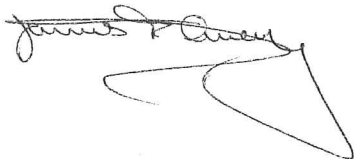
Ensuring regulatory consistency is also extremely important to the implementation phase of transmission development. Often, the ambiguity in rules or regulations can give rise to inconsistent or unintended interpretations by different agencies or by different personnel within the same agency. Having a mechanism to quickly resolve such inconsistencies will also advance the predictability and stability of the implementation process, and greatly minimize project delay.

Lastly, in the event transmission projects that have received the approval of multiple federal agencies are challenged through administrative appeals, it would significantly reduce delay and the expenditure of resources by all parties if there were a process for consolidating the challenges into a single proceeding.

Conclusion

SDG&E appreciates the opportunity to comment on these important issues and would be happy to meet and discuss these comments further.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Avery", followed by a large, stylized flourish or scribble.

James P. Avery
Senior Vice President – Power Supply

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