

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of  
Southern California Edison Company for  
Approval of the Results of its 2013 Local  
Capacity Requirements Request for Offerors  
for the Moorpark Sub-Area (U-338-E)

Application No. A.14-11-016  
(Filed November 26, 2014)

**PROTEST OF THE CITY OF OXNARD**

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Dated: **December 24, 2014**

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**PROTEST OF THE CITY OF OXNARD**

**I. INTRODUCTION**

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, the City of Oxnard ("**City**") timely submits this Protest to the Application of Southern California Edison Company for Approval of the Results of its 2013 Local Capacity Requirements Request for Offerors for the Moorpark Sub-Area (U-338-E) (the "**Application**").<sup>1</sup>

In Application A.14-11-016, Southern California Edison ("**SCE**") requests the California Public Utilities Commission's ("**Commission**") approval of eleven (11) contracts selected through the 2013 Local Capacity Requirements ("**LCR**") Request for Offers ("**RFO**") process for the Moorpark sub-area.<sup>2</sup> SCE requests the Commission's expedited consideration of its Application without the need for evidentiary hearings.<sup>3</sup>

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<sup>1</sup> A protest or response to an application must be filed within 30 days of the first notice of the filing in the Daily Calendar. Rule 2.6(a).

<sup>2</sup> A.14-11-016, p. 2.

<sup>3</sup> A.14-11-016, pp. 6, 10.

## II. BACKGROUND

On February 13, 2013, the Commission issued D.13-02-015 (the “**Track 1 decision**”) in the Long Term Procurement Plan (“**LTPP**”) proceeding. The Track 1 decision ordered SCE to procure between 215 and 290 Megawatts (“**MW**”) of electrical capacity in the Moorpark sub-area of the Big Creek/Ventura local reliability area to meet long-term local capacity requirements by 2021, largely due to the expected retirement of once-through-cooling (“**OTC**”) generation facilities.<sup>4</sup> The Track 1 decision also ordered SCE to file an application for approval of all cost-of-service contracts entered into as a result of the procurement process for new capacity in the Moorpark Sub-area.<sup>5</sup>

As a result of the SCE LCR RFO process, on July 1, 2014, the City Council of the City of Oxnard unanimously adopted interim urgency Ordinance No. 2882 prohibiting the expansion of existing, or development of new, electrical generating facilities within the Oxnard Coastal Zone pursuant to the SCE LCR RFO process pending studies and changes in the Oxnard Local Coastal Plan, zoning ordinance, and other land use regulations. Upon learning of the pending SCE LCR RFO process, the City was very concerned that the siting of any new facility immediately adjacent to the Pacific Ocean may conflict with the Coastal Act, an updated Oxnard Local Coastal Plan, for which the City has received grant support from the Coastal Commission and the Ocean Protection Council, and other new or revised policies that seek to protect critical energy infrastructure from the expected impacts of sea level rise and storm events. The City has retained consultants who are preparing sea level rise maps and risk assessments consistent with the Coastal Commission’s Draft 2013 Sea-Level Rise Policy Guidance: preliminary maps and

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<sup>4</sup> D.13-02-015, p. 2.

<sup>5</sup> D.13-02-015, p. 135.

risk studies are expected in early 2015.<sup>6</sup> So, the primary purpose of the moratorium is to defer decisions on certain pending and future project applications related to the SCE LCR RFO process while the City studies related issues and/or complies with Federal or State mandates, evaluates possible regulatory options, and considers the adoption of new regulations. The City Council extended interim urgency Ordinance No. 2882 through the adoption of Ordinance No. 2884 on July 29, 2014 for a period of 10 months and 15 days from the date Ordinance No. 2882 would otherwise expire.

The City does not object to the Commission's Track 1 decision, which establishes a need for additional electrical generation capacity in the Moorpark sub-area of the Big Creek/Ventura local reliability area. The City is confident the Commission's determination that SCE needed to procure between 215 and 290 MWs is based on sound information regarding the present and future need for electrical power, the reliability of the regional distribution system and its vulnerability to natural disasters that could sever the Moorpark sub-area from the regional grid.

### **III. OBJECTIONS TO APPLICATION**

The City does, however, object to SCE's decision to enter into a cost-of-service contract with NRG Energy Center Oxnard LLC ("**NRG**") for the development of a new 262 MW GFG facility to be located adjacent to the existing NRG Mandalay Generating Station ("**Mandalay Facility**"). While the City acknowledges the California Energy Commission's ("**CEC**") jurisdiction<sup>7</sup> to evaluate siting for certain thermal power plants and related facilities, the City objects to any SCE cost-of-service contract that limits the location of a particular facility to a site that is environmentally sensitive and vulnerable to natural disasters.

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<sup>6</sup> California Coastal Commission, Draft Sea-Level Rise Policy Guidance, pp. 32 and 64.

<sup>7</sup> Pub. Resources Code, §§ 25000 *et seq.*

Pursuant to Section 316(b) of the Clean Water Act and the California State Water Resources Control Board Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (the “**SWRCB Policy**”), the existing Mandalay Facility will most likely retire its operations on or before December 31, 2020 in order to comply with the SWRCB Policy that seeks to reduce water pollution caused by power plants that utilize OTC to dispose of waste heat. The City recognizes that the loss of the Mandalay Facility will create a need for SCE to provide additional capacity in the Moorpark sub-area. However, the City believes the prevention of environmental impacts and ensuring the safety and reliability of the local electrical grid far outweigh the implementation of a cost-of-service contract that is tied to a site that is environmentally sensitive and vulnerable to natural disaster.

The City is concerned that the Commission’s approval of a cost-of-service contract between SCE and NRG for the new 262 MW GFG facility will have a significant impact on existing environmental resources. The Mandalay Facility and the general adjacent site for the proposed new 262 MW GFG facility are both located within the Oxnard Coastal Zone and immediately east of a low dune that separates the existing and proposed new 262 MW GFG facility from the Pacific Ocean and nesting sites for two EPA-listed endangered species. In addition, there is a unique fresh water back dune lake and mitigation wetlands located immediately north of the proposed site. In the spirit of the SWRCB policy, the Clean Water Act, the California Environmental Quality Act, and the National Environmental Quality Act, the City hopes to protect these essential environmental resources and believes the proposed site is inappropriate as a possible location to secure capacity.

The City is also very concerned that the Commission’s approval of the SCE cost-of-service contract with NRG poses an immediate threat to the public health, safety and welfare of

the residents of the City of Oxnard and Ventura County in that approval of the contract will result in siting of the proposed 262 MW GFG facility in a location that is vulnerable to sea-level rise. Sea level rise, coupled with storm surge events, wave run-up, erosion or Tsunami events would subject the existing Mandalay Facility and the proposed 262 MW GFG facility to failure and would lead to the very situation that the Commission sought to prevent through issuance of D.13-02-015. In D.13-02.015, the Commission explains that the Local Capacity Requirements (“LCRs”) require resources to be located in a specific transmission-constrained area in order to ensure adequate available electrical capacity to meet peak demand, and ensure the safety and reliability of the local electrical grid.<sup>8</sup> By approving a cost-of-service-contract with NRG, the Commission would essentially allow the siting of a resource whose location does not ensure the safety and reliability of the local electrical grid.

#### **IV. ALTERNATIVE SITES**

The City respectfully requests the Commission to order SCE to amend its cost-of-service contract with NRG to allow for an alternative site within the Moorpark sub-area. The City has in the past, and continues to offer to work with SCE and NRG to identify, acquire, service and, if necessary, annex a better site for the proposed 262 MW GFG facility.

The City also requests the Commission to order SCE to amend its cost-of-service contract with NRG to allow extension of the June 1, 2020 operational target date and adjustment of the per-kW contract price for the additional costs of developing an environmentally superior and secure alternative site should such a site be identified through the CEC licensing process.

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<sup>8</sup> D.13-02-015, p. 2.

**V. CONCLUSION**

For the reasons set forth above, the City protests SCE's filing and requests the Commission order SCE to amend its cost-of-service contract with NRG to allow for an alternative site within the Moorpark sub-area, an extension of the operational target date and adjustment of the per-kW contract price should an environmentally superior and secure alternative site be identified through the CEC licensing process.

Respectfully submitted,

December 24, 2014

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Tim Flynn  
Mayor, City of Oxnard

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING CITY STAFF, AT THE DIRECTION OF CITY COUNCIL, TO MAKE ANY NECESSARY REVISION TO THE CITY OF OXNARD PROTEST TO APPLICATION NO. A.14-11-016; THE MAYOR TO EXECUTE THE PROTEST TO APPLICATION NO. A.14-11-016 ON BEHALF OF THE CITY OF OXNARD; CITY STAFF TO PREPARE A MOTION FOR THE CITY OF OXNARD TO BECOME A PARTY IN THE PROCEEDINGS RELATED TO APPLICATION NO. A.14-11-016; THE MAYOR TO EXECUTE THE MOTION TO BECOME A PARTY ON BEHALF OF THE CITY OF OXNARD; AND CITY STAFF TO FILE THE CITY PROTEST AND MOTION TO BECOME A PARTY WITH THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND SERVE ALL APPROPRIATE PARTIES IN THE PROCEEDINGS

WHEREAS, on February, 13, 2013, the California Public Utilities Commission ("Commission") issued D.13-02-015 ("Track 1 decision") in the Long Term Procurement Plan proceedings; and

WHEREAS, the Track 1 decision orders Southern California Edison Company ("SCE") to procure between 215 and 290 Megawatts ("MW") of electrical capacity in the Moorpark sub-area of the Big Creek/Ventura local reliability area to meet long-term local capacity requirements by 2021, largely due to the expected retirement of once-through-cooling generation facilities; and

WHEREAS, the Track 1 decision also ordered SCE to file an application for approval of all contracts entered into as a result of the procurement process for new capacity in the Moorpark sub-area; and

WHEREAS, on July 1, 2014, the City Council adopted interim urgency Ordinance No. 2882 prohibiting the expansion of existing, or development of new, electrical generating facilities within the Oxnard Coastal Zone pursuant to the SCE's procurement process pending studies and changes in the Local Coastal Plan, zoning ordinance, and other land use regulations; and

WHEREAS, on July 29, 2014, the City Council extended interim urgency Ordinance No. 2882 through the adoption of Ordinance No. 2884 for a period of 10 months and 15 days from the date Ordinance No. 2882 would otherwise expire; and

WHEREAS, on November 26, 2014, SCE filed its application with the Commission to request that the Commission approve eleven (11) cost-of-service contracts selected through its 2013 Local Capacity Requirements Request for Offers process ; and

WHEREAS, one of the proposed cost-of-service contracts for which SCE seeks Commission approval is between SCE and NRG Energy Center Oxnard LLC (the “NRG Contract”); and

WHEREAS, the NRG Contract relates to the development of a new 262 MW GFG facility to be located adjacent to the existing NRG Mandalay Generating Station (“Mandalay Facility”); and

WHEREAS, the Commission’s approval of the NRG Contract for a new 262 MW GFG facility will have a significant impact on existing environmental resources in that the Mandalay Facility and the proposed facility are both located within the Oxnard Coastal Zone and immediately east of a low dune that separates the existing and proposed new 262 MW GFG facility from the Pacific Ocean and nesting sites for two EPA-listed endangered species, and there is a unique fresh water back dune lake and mitigation wetlands located immediately north of the proposed facility; and

WHEREAS, the Commission’s approval of the NRG Contract for a new 262 MW GFG facility poses an immediate threat to the public health, safety and welfare of the residents of the City of Oxnard and Ventura County in that approval of the NRG Contract will result in siting of the proposed 262 MW GFG facility in a location that is vulnerable to sea-level rise. Sea level rise, coupled with storm surge events, wave run-up, erosion or Tsunami events would subject the existing Mandalay Facility and the proposed 262 MW GFG facility to failure and would lead to the very situation that the Commission sought to prevent through issuance of D.13-02-015; and

WHEREAS, the City Council of the City of Oxnard desires to protect existing environmental resources and ensure the safety and reliability of the local electrical grid by filing a protest with the Commission by strongly encouraging the Commission and SCE to amend the NRG Contract to allow for an alternative site in the Moorpark sub-area, an extension of the operational target date and adjustment of the per-kW contract price should an environmentally superior and secure alternative site be identified through the California Energy Commission licensing process.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby authorizes: (i) City staff, at the direction of City Council, to make any necessary revision to the City of Oxnard Protest to Application No. A.14-11-016 (attached hereto); (ii) the Mayor to execute the Protest to Application No. A.14-11-016 on behalf of the City of Oxnard; (iii) City staff to prepare a motion for the City of Oxnard to become a party in the proceedings related to Application No. A.14-11-016; (iv) the Mayor to execute the Motion to Become a Party on behalf of the City of Oxnard; and (v) City staff to file the City Protest and Motion to Become a Party with the California Public Utilities Commission and serve all appropriate parties in the proceedings.

**[SIGNATURES ON FOLLOWING PAGE]**

PASSED AND ADOPTED THIS 23rd day of December, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Tim Flynn, Mayor

ATTEST:

\_\_\_\_\_  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stephen M. Fischer, Interim City Attorney