

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**

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February 14, 2024

**Agenda ID #22372**  
**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 15-04-013:

This is the proposed decision of Administrative Law Judge Robyn C. Purchia. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's March 21, 2024 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC: hma  
Attachment

Decision \_\_\_\_\_

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

In the Matter of the Application of  
Southern California Edison Company  
(U338E) for a Certificate of Public  
Convenience and Necessity for the  
RTRP Transmission Project.

Application 15-04-013

**DECISION DENYING THE CITY OF NORCO'S PETITION FOR  
MODIFICATION OF DECISION 20-03-001**

**Summary**

This decision denies the petition for modification of Decision 20-03-001 filed by the City of Norco and closes the proceeding.

**1. Background and Procedural History**

Decision (D.) 20-03-001 granted Southern California Edison Company (SCE) a Certificate of Public Convenience and Necessity (CPCN) for the Riverside Transmission Reliability Project (RTRP) and related facilities. As lead agency, the City of Riverside prepared an Environmental Impact Report (EIR) and certified that it complied with the California Environmental Quality Act (CEQA) on February 5, 2013.<sup>1</sup> In 2016, SCE revised the RTRP to underground a portion of the transmission line because the City of Jurupa Valley approved residential and commercial developments within the proposed alignment for

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<sup>1</sup> D.20-03-001 at 3.

SCE's portion of the RTRP. The Commission prepared a Subsequent EIR (SEIR) to address the revised project and issued a final SEIR on October 2, 2018.<sup>2</sup>

The SEIR recognized the potential for "downed structures" but stated that transmission lines are designed to withstand high winds, are spaced safely, and contain shut-off protection systems.<sup>3</sup> Further, the SEIR stated that regular maintenance inspections which would identify corrosion, equipment misalignment, loose fittings, and other mechanical problems, would reduce the risk of down structures.<sup>4</sup> Overall, the SEIR determined the "impact from downed structures would be less than significant."<sup>5</sup> The Commission's SEIR also considered and eliminated "Alternative 8," which was a proposal to underground the entire transmission line. The Commission eliminated Alternative 8 from further consideration because it would result in substantially greater environmental impacts than the revised RTRP.<sup>6</sup>

The City of Norco (Norco or Petitioner) participated in the Commission's CEQA review process by providing comments on the SEIR dated May 15, 2018. In its comments, Norco noted its strong concern about the overhead transmission lines' aesthetic impacts on the Santa Ana River's natural landscape, property values, and recreation resources for residents. Norco also stated its concern about the significant loss of agricultural land, as well as the potential threat to fire safety. However, Norco did not request that the Commission reconsider Alternative 8 to address these concerns at that time.

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<sup>2</sup> D.20-03-001 at 4.

<sup>3</sup> Final SEIR at 4.7-24.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Id.* at 3-11.

On November 7, 2018, Norco requested party status in this proceeding. While Norco indicated that its primary interest was participating in a potential “consolidated review and consideration of SCE’s interrelated projects,” Norco also expressed an interest in ensuring that the Commission “fully consider the construction and placement of high voltage transmission lines in an area designated by the State of California as high fire risk immediately adjacent to the City’s borders.”<sup>7</sup> On June 17, 2019, as its motion for party status was pending, Norco served testimony, which stated that the fire threat created by overhead transmission lines is residents’ most significant concern. In its testimony, Norco asserted that undergrounding the RTRP would mitigate many of the adverse fire threats.

On August 12, 2019, the Commission denied Norco’s motion for party status in this proceeding because SCE’s other projects and the “overhead transmission line segment over the Santa Ana River is outside the footprint of the proposed changes and, therefore, outside the scope of the [SEIR] and this proceeding.”<sup>8</sup> Norco did not challenge the Commission’s denial of its motion. Norco also did not challenge the Commission’s certification of the SEIR or its decision granting SCE a CPCN in D.20-03-001, which became effective on March 12, 2020 and was issued on March 18, 2020.<sup>9</sup>

On October 2, 2023, over three years after the issuance of D.20-03-001, Norco filed this petition for modification (PFM) requesting that the Commission modify that decision to reopen the record and again reconsider the previously rejected Alternative 8. Norco stated that multiple changed factual circumstances

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<sup>7</sup> Motion for Party Status at 2-3.

<sup>8</sup> Administrative Law Judge’s Ruling Denying Motion for Party Status at 1, 2.

<sup>9</sup> D.20-03-001 at 39.

within the last two years contributed to greatly increase the risk of wildfire in the overhead portion of the RTRP route, including increased residential development, vegetation growth, and fire incidents in the vicinity of the RTRP route. Norco also points to regulatory changes that underscore the state's priority in identifying and mitigating wildfire impacts.

On November 1, 2023, the Public Advocates Office of the Commission (Cal Advocates) and SCE filed responses opposing Norco's instant PFM. Referencing its Wildfire Mitigation Plan, which was approved by the Office of Energy Infrastructure Safety, SCE asserted that wildfire mitigation practices are already in place for the RTRP. SCE further stated that the increase in vegetation growth is not a new fact because the Commission was and continues to be aware that the overhead route would traverse areas of dense vegetation when it approved the RTRP. Similarly, Cal Advocates also confirmed that the California Department of Forestry and Fire Protection identified RTRP sites near Norco as fire hazard severity zones with very high-risk status as early as 2007.

The City of Jurupa Valley filed a response, which stated that it does not oppose Norco's PFM on the condition that the Commission preserves D.20-03-001's requirement that SCE underground the RTRP through Jurupa Valley's boundaries. Norco filed a reply on November 13, 2023, agreeing with Jurupa Valley that the Commission need not modify the previously approved undergrounded portion of the RTRP. Norco's reply also addressed Cal Advocates' and SCE's responses.

## **2. Legal Standard and Discussion**

Public Utilities (Pub. Util.) Code Section 1708 authorizes the Commission to "rescind, alter, or amend any order or decision made by it" after providing proper notice to the parties and an opportunity to be heard. By its very nature,

the Commission's authority under Section 1708 is an extraordinary remedy. It must be exercised with care, justified by extraordinary circumstances, and remain consistent with the fundamental principles of res judicata because "Section 1708 represents a departure from the standard that settled expectations should be allowed to stand undisturbed."<sup>10</sup>

Rule 16.4 of the Commission's Rules of Practice and Procedure governs the filing of a petition for modification, a procedural vehicle that "asks the Commission to make changes to an issued decision."<sup>11</sup> Rule 16.4(d) requires petitioners to file and serve their petition within one year of the effective date of the decision proposed to be modified, or to explain the late submission. If the Commission determines the petitioner failed to justify the late submission, "it may on that ground (alone) issue a summary denial of the petition."<sup>12</sup>

Because Norco's PFM here was filed over three years after D.20-03-001 was issued, Norco bears the burden to justify the late submission. Norco explained that it filed its PFM "at this time due to multiple changed factual circumstances that have combined within the last two years to greatly increase the risk of wildfire in the portion of the RTRP route that is to be constructed with overhead lines."<sup>13</sup> According to Norco, wildfires have occurred more frequently in Norco and the surrounding communities; there is increased residential and vegetation growth in the vicinity of the RTRP route; and there is an increase in the number of fire incidents in this location.

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<sup>10</sup> D.92058 (1980) 4 CPUC 2d 139 at 149-150; *see also* D.15-05-004 at 6.

<sup>11</sup> Rule 16.4(a); *see also* D.15-05-004 at 6.

<sup>12</sup> D.18-09-005 at 4-5 (parenthetical in original).

<sup>13</sup> PFM at 5.

The Commission takes its role in addressing the risk of utility-involved wildfires seriously. As noted above, this risk was considered by the Commission in the SEIR,<sup>14</sup> and the Commission, in coordination with the Office of Energy Infrastructure Safety, continues to assess and monitor whether utilities, like SCE, are properly directing resources and taking appropriate measures to address and mitigate wildfire risks.

Nevertheless, we find Norco's PFM unpersuasive here. Norco raised the RTRP's potential threat to fire safety in its comments on the Commission's SEIR many years ago. It noted substantially similar concerns in its motion for party status and testimony, also many years ago. Even in its reply to Cal Advocates' and SCE's responses to this PFM, Norco characterized its concerns as "ongoing."<sup>15</sup>

We find that Norco did not timely act on these admitted "ongoing" concerns by properly and timely raising them through the CEQA challenge processes or by pursuing timely challenges of the Commission's denial of its motion, the Commission's certification of the SEIR, or the Commission's decision to grant SCE a CPCN.

Instead, Norco filed its petition three years after D.20-03-001 was issued to seek the Commission's reconsideration of the same concerns it raised in 2018 and 2019. The facts are not new and the delay, by its nature, undermines Norco's assertion that its circumstances are extraordinary. We, therefore, deny Norco's PFM.

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<sup>14</sup> Final SEIR at 4.7-24.

<sup>15</sup> Reply of the City of Norco at 7.

### **3. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. There are no relevant public comments on the Docket Card concerning Norco’s PFM.

### **4. Procedural Matters**

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

### **5. Comments on Proposed Decision**

The proposed decision of Administrative Law Judge Robyn Purchia in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

### **6. Assignment of Proceeding**

Commissioner Karen Douglas is the assigned Commissioner and Robyn Purchia is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. On March 18, 2020, the Commission issued D.20-03-001.
2. On October 2, 2023, Norco filed and served its instant PFM, which requested that the Commission reopen the record to reconsider Alternative 8 of the RTRP.
3. Norco explained that it did not bring the PFM within a year of the effective date of the decision because multiple changed factual circumstances within the



last two years contributed to greatly increase the risk of wildfire in the overhead portion of the RTRP route, including increased residential growth, vegetation, and the number of fire incidents in the area greatly increased the risk of wildfire in the overhead portion of the RTRP route.

4. The Commission's SEIR determined the project poses a less-than-significant risk of wildfire. The Commission's SEIR also considered and eliminated "Alternative 8," which was a proposal to underground the entire transmission line.

5. On May 15, 2018, Norco provided comments on the SEIR and stated its concern about the potential threat to fire safety. However, Norco did not request that the Commission reconsider Alternative 8 to address these concerns, nor file further challenges to the certification of SEIR.

6. In 2018, Norco moved for party status in this proceeding based, in part, on its concern about the construction of transmission lines in a high fire risk area. In 2019, Norco served testimony that highlighted the fire threat posed by overhead transmission lines and stated that undergrounding the RTRP would mitigate this threat.

7. On August 12, 2019, the Commission denied Norco's motion for party status. Norco did not challenge the ruling.

8. Rule 16.4 of the Commission's Rules of Practice and Procedure governs the filing of petitions for modification.

9. Pub. Util. Code Section 1708 is an extraordinary remedy that the Commission exercises with care, justified by extraordinary circumstances, and in keeping with the principles of *res judicata*.

10. Pub. Util. Code Section 1708 represents a departure from the standard that settled expectations should be allowed to stand undisturbed.

**Conclusions of Law**

1. Norco's PFM should be denied.
2. There is insufficient justification as to why Norco's PFM was filed three years after the Commission's issuance of D.20-03-001 and why it could not have been filed within one year of that decision.
3. There is insufficient justification for the Commission to revisit the previously evaluated and dismissed Alternative 8 issue.
4. Norco's PFM does not meet the requirements of Rule 16.4(d).
5. The proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

The City of Norco's Petition for Modification of Commission Decision 20-03-001 is denied.

Application 15-04-013 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California