

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Facilities With Voltages Between 50kV and 200kV: Valley-Ivyglen 115 kV Subtransmission Line Project.

Application 07-01-031
(Filed January 16, 2007)

And Related Matters.

Application 07-04-028

Application 09-09-022

REPLY BRIEF OF THE CITY OF LAKE ELSINORE

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For: CITY OF LAKE ELSINORE

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Pursuant to the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Rule 13.11 and the Assigned Commissioner’s Scoping Memo and Ruling, the City of Lake Elsinore (“City”) hereby submits its Reply Brief concerning Southern California Edison’s (“SCE”) amended Petition for Modification (“PFM”) of the decision granting a permit to construct the Valley-Ivyglen 115 kV Subtransmission Line Project (the “VIG Project”) and SCE’s application for a Certificate of Public Convenience and Necessity (“CPNC”) for the Alberhill System Project (the “ASP Project”). The VIG Project and the ASP Project are collectively referred to herein as the “Proposed Projects.”

I. INTRODUCTION

In its Opening Brief, SCE submits that the Final Environmental Impact Report's ("Final EIR")¹ was properly prepared and adequate mitigation measures imposed, all in compliance with CEQA.²

The City submits in reply that the Proposed Projects will have significant environmental impacts that have not been sufficiently mitigated. In particular, the Proposed Projects will result in significant unmitigated visual impacts.

II. SCE SUPPORTS UNDERGROUNDING . . . EXCEPT IN LAKE ELSINORE

SCE website addresses the issues of undergrounding: "The California Public Utilities Commission's (CPUC) Rule 20 sets policies and procedures for the conversion of overhead power lines and other equipment to underground facilities, a process called 'undergrounding.' We support undergrounding because it provides substantial aesthetic benefits to local communities."³ Except, that is, in Lake Elsinore.

That SCE publically supports undergrounding is not surprising. Electrical transmission facilities in nearly all new residential communities and commercial developments in California are undergrounded. This is the case in one of the City's most desirable business parks along Pasadena Street where the Proposed Projects will result in multiple installation of double circuit poles.⁴

When assessing visual impacts, the Commission properly evaluates, for example, how new structures will affect views in comparison to the existing visual setting, the public's

¹ Valley-Ivyglen 115 kV Subtransmission Line and Alberhill System Projects Final Environmental Impact Report, April 2017, A.07-01-031, A.09-09-022, SCH Nos. 2008011082, 2010041031 ("Final EIR"). Excerpts from the Final EIR referenced in this Reply Brief can be found in the City's *Motion to Request Judicial Notice* ("JN"), Exhibit 1, filed concurrently with the City's Opening Brief.

² SCE's Opening Brief, pp. 20-22.

³ See SCE's Website, available at: <https://www.sce.com/wps/portal/home/regulatory/distribution-manuals/underground-structures>

⁴ Final EIR, Figure 4.1-4i. Notably, the visual simulation for Figure 4.1-4i shows single circuit pole even though Pasadena Street is within both the VIG-4 segment and the ASP-3 segment (see Final EIR, Figure 2.5b) and will therefore contain double circuit poles (see Final EIR, p. 2-28, reference to "Segment ASP3").

exposure and sensitivity to views of a new structure, and the dominance of a new structure in the viewshed. But no matter where one turns in the City of Lake Elsinore, whether it be the mature commercial developments along Casino Drive⁵, the new business park lining Pasadena Street⁶, the wide open rural lands surrounding Baker Street,⁷ the existing residential developments along Nichols Road or the future residential development along Lake Street,⁸ the Final EIR's answer is the same: no significant adverse visual impacts.

Whether the poles and transmission lines run across the interstate freeway lying within the City's limits (Interstate 15), along the state highway within the City (State Route 74), a major arterial like Casino Drive, a two-lane road like 3rd Street, or even a dirt road like Baker Street, the Final EIR's answer is again the same: no significant adverse visual impacts.

Given this matrix of land uses and right-of-way types impacted by the Proposed Projects, the Final EIR's visual impact analysis inexplicably concludes that not one combination of landscapes or roadway over a course of miles and miles of overhead transmission lines ever results in a significant adverse visual impact in Lake Elsinore. No matter when one turns, the Final EIR tells us that folks will simply be going too fast to notice the transmission lines (freeway), will be too weary to notice (because they are going to work), or will not care that the view has gone from bad to worse (because there are already existing poles and lines).⁹ And this goes to the heart of why the Final EIR's visual impact methodology based on the Federal Highway Administration's 1988 *Visual Impact Assessment for Highway Projects*¹⁰ is so biased

⁵ Final EIR, Figure 4.1-4n.

⁶ Final EIR, Figure 4.1-4i.

⁷ The Final EIR visual impact analysis did not include the Baker Street section although the open range land is similar to that shown on Figure 4.1-2c, identified as "CP-9" and "CP-10." The double circuit lines and poles running along Baker Street will, without question, be the dominant visual feature in this area once they are installed which probably explains why the Final EIR failed to include simulations of this area.

⁸ None of the Lake Elsinore "landscape unit" or "context photographs" included views from neighborhoods. See Final EIR, Figures 4.1-2c and 4.1-2d.

⁹ See Final EIR, Table 4.1-2.

¹⁰ Final EIR, at p. 4.1-1, referencing the *Visual Impact Assessment for Highway Projects*, Federal Highway Administration, Publication No. FHWA-HA-88-054. See City's *Motion to*

against honestly evaluating visual impacts to working class communities like Lake Elsinore. It methodically understates viewer sensitivity by using standards from 1988:

“Viewer sensitivity is high for views seen by people who are driving for pleasure; people engaging in recreational activities, such as hiking, biking, or camping; and homeowners. Viewer sensitivity tends to be lower for views seen by people driving to and from work, as part of their work, or engaged in personal business activities (USFS 1995; FHWA1988).”

The City heartily protested the use the FHWA *Visual Impact Assessment for Highway Projects* because of its bias toward “drivers” and its accompanying focus on major highway corridors¹¹ (although we acknowledging that such emphasis is consistent with the role of the Federal Highway Administration). The use of this methodology also led to the Final EIR’s visual impact analysis being flawed in other ways:

Notably, the simulated views were not representative. All of the simulated views within the City were from improved roads and highways despite the fact that a section of the transmissions lines run through an open and largely undeveloped with accessed by way of dirt road (Baker Street). There are no views from residential areas.¹²

The Final EIR then doubled down by choosing fake viewer sensitivity categories: pleasure “drivers” and recreationist versus “drivers” going to work or out on an errand.¹³ To believe the visual impact analysis in the Final EIR, one needs to conclude that everyone in Lake Elsinore is just driving to work or performing an errand.

And it did not help that the simulated views are not accurate. As discussed in the City’s Opening Brief at pages 14-16, the simulated views contained single circuit power poles when in fact the Proposed Projects call for double circuiting the lines on the poles.

In closing, we urge the Commission to closely consider how the use of a now discarded visual measuring stick that is the FHWA’s *Visual Impact Assessment for Highway Projects* can

Request Judicial Notice, Exhibit 2, filed concurrently with the City’s Opening Brief.

¹¹ See Final EIR, Appendix M, part M3 Local, beginning on page 9.

¹² See Footnote 7, *supra*.

¹³ Final EIR, Figure 4.1-2.

be sustained when held to the light of court's decision in *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comms.* (2001) 91 Cal.App.4th 1344 ("*Berkeley*"). While we will not revisit the extensive briefing in the City's Opening Brief discussing *Berkeley*, *Berkeley* clearly stands for the proposition that impacts cannot be measured using outdated and discarded paradigms in order to surreptitiously diminish those impacts while simultaneously claiming to use an accepted standard. Use of FHWA's 1988 *Visual Impact Assessment for Highway Projects* is an insidious practice that systematically understates visual sensitivity within urbanize working class communities.

III. CONCLUSION

The City respectfully urges the Commission to deny SCE's amended Petition for Modification for the VIG Project and its application for a Certificate of Public Convenience and Necessity for the ASP Project until such time as an EIR that complies with CEQA has been prepared or, alternatively, to impose mitigation measures that require undergrounding of transmission lines in the impacted areas of the City.

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Respectfully Submitted,

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