Decision 14-02-002 February 5, 2014

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 50 kV and 200 kV: Falcon Ridge Substation Project.	Application 10-12-017 (Filed December 29, 2010)

DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY A PERMIT TO CONSTRUCT THE FALCON RIDGE SUBSTATION PROJECT

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DECISION GRANTING SOUTHERN CALIFORNIA EDISON COMPANY A PERMIT TO CONSTRUCT THE FALCON RIDGE SUBSTATION PROJECT

1. Summary

This decision grants Southern California Edison Company (SCE) a permit to construct the version of the Falcon Ridge substation project referred to as the Intex Alternative, which Appendix I to the Final Environmental Impact Report identifies as the environmentally superior project. Our approval is subject to all mitigation identified in the Mitigation Monitoring, Reporting, and Compliance Program, which has been developed in the course of environmental review. As the lead agency for environmental review of the project, we find and certify that the Environmental Impact Report prepared for this project meets the requirements of the California Environmental Quality Act and that there are overriding considerations that merit construction of the Intex Alternative notwithstanding the project's significant and unavoidable environmental impacts. We also find that SCE has complied with the policies governing the mitigation of electromagnetic field effects using low-cost and no-cost measures. This proceeding is closed.

2. Proposed Project

By this application, Southern California Edison Company (SCE) seeks a permit to construct the Falcon Ridge substation project (the Project), which includes the following major components:

- Construction of a new 66/12 kilovolt (kV) substation to be located in the City of Fontana (the Falcon Ridge substation);

- Installation of two separate 66 kV subtransmission source line segments to connect the proposed Falcon Ridge substation to the existing Alder 66/12 kV substation (this path is termed the Alder Subtransmission Source Line Route) and to the Etiwanda 220/66 kV substation (this path is termed the Etiwanda Subtransmission Source Line Route);

- Construction of three underground 12 kV distribution getaways; and

- Installation of telecommunications facilities at the proposed Falcon Ridge substation, installation of telecommunications fiber optic cable on the proposed 66 kV subtransmission source lines and the modification of the existing telecommunications facilities at the Etiwanda and Alder substations to connect the new substation to the SCE telecommunications network.

The new subtransmission source lines would be located in the cities of Rancho Cucamonga, Fontana, and Rialto and a portion of unincorporated San Bernardino County. We examine alternative routings for portions of each of the subtransmission source lines in Section 6, below.

The purpose of the Project is to serve the current and projected electrical demand for electricity and to enhance reliability and system operational flexibility in the named cities and the surrounding areas of unincorporated San Bernardino County, as described in the application and in SCE's prepared testimony, Exhibit 1. SCE has determined that construction of the new substation and upgrades to associated infrastructure are needed to accommodate demand in the region as a whole (termed the Electrical Needs Area), potentially beginning as early as 2014, should an N-1 heat storm occur.

3. Procedural Background

SCE filed this application on December 29, 2010. The City of Fontana (Fontana) timely filed a response. James Constant filed a timely protest on behalf of himself and Robert Constant, both landowners, as did J.W. Mitchell Land Company, LLC (Mitchell Land Co.), a landowner and developer. With leave of the then-assigned Administrative Law Judge (ALJ), the City of Rialto (Rialto) filed a late protest.[1] SCE and the Constants filed replies. All protests, as well as Fontana's response, argue for various changes in the Project design, as do letters received from the Fontana Unified School District and members of the public.

In accordance with the California Environmental Quality Act (CEQA), the California Public Utilities Commission (Commission) commenced environmental review of the application and released a Draft Environmental Impact Report (Draft EIR or DEIR) in January 2012. Prehearing Conferences (PHCs) were held in Fontana on February 16 and in San Francisco on March 7, 2012, and thereafter, on March 19, 2012, the assigned Commissioner, as statute requires, issued a scoping memo identifying the issues and setting a schedule. Among other things, the scoping memo required distribution of prepared testimony in March and April 2012.

On April 30, 2012, after distribution of prepared testimony by SCE, James Constant and Mitchell Land Co., the schedule was suspended to provide additional time to consider comments on the DEIR. Given the nature and scope of those comments, the Final Environmental Impact Report (Final EIR or FEIR) was not issued until October 2012. Thereafter, on November 13, 2012, the

[1] Following the retirement of ALJ Walwyn, who was initially assigned, on August 9, 2012, this proceeding was reassigned to ALJ Vieth.

Commission held another PHC in Fontana and on November 28, 2012, the assigned Commissioner issued an amended scoping memo.

At the request of the parties, some of whom were engaged in informal negotiations, the assigned ALJ revised the schedule several times after the amended scoping memo issued. Ultimately, the following parties distributed additional prepared testimony in June and July 2013: SCE, James Constant, Rialto and Intex Properties Inland Empire Corp (Intex), a landowner. Further, on May 17, 2013, the Commission's environmental consultant issued a new Appendix I to the FEIR that provides additional environmental analysis of a partial routing change (the Intex Alternative) proposed after release of the FEIR.

Ultimately, the parties determined that evidentiary hearing was unnecessary, requested that the hearings dates be taken off calendar and asked to brief the remaining legal and policy issues directly. By ruling on August 1, 2013, the ALJ revised the schedule as requested, received the parties' prepared testimony in evidence and attached the exhibit index to the ruling. SCE and Rialto filed opening briefs on August 9, 2013 and reply briefs on September 10, 2013. With the ALJ's leave, James Constant filed a reply brief, late, on October 15, 2013 (the brief had been timely-served but was not filed with the Commission's Docket Office).

4. Environmental Review

Pursuant to General Order (GO) 131-D, which governs review of a permit to construct application for specified subtransmission lines and substations, the Commission must find that a proposed project complies with CEQA.[2] CEQA requires the lead agency (the Commission in this case) to conduct a review to

identify potential environmental impacts of the project and ways to avoid or reduce environmental damage. The Commission must consider this review in determining whether to approve a project or a project alternative. CEQA precludes the lead agency from approving a proposed project or a project alternative unless the lead agency requires the project proponent to eliminate or substantially lessen all significant effects on the environment, where feasible. The lead agency must also determine that any remaining, unavoidable significant effects are acceptable due to overriding considerations. (CEQA Guidelines §§ 15090, 15091, 15093, 15126.2, 15126.4, and 15126.6.)

Accordingly, after SCE filed this application in late December 2010, the Commission issued a Notice of Preparation of an EIR on March 30, 2011. The Commission sent the notice to local, state and federal agencies and to the State Clearinghouse of the Office of Planning and advertised the notice in local and regional newspapers. On April 14, 2011, the Commission held a public workshop and scoping meeting in Fontana, California. Following requests from the cities of Fontana and Rialto, the Commission held a follow-up scoping meeting on May 11, 2011, at which the cities provided additional input on the scope of the analysis and alternatives to SCE's Proposed Project.

In January 2012, the Commission released the Draft EIR, which discusses all of the public input received and identifies Alternative 1, also referred to as the Lowell Street Realignment Alternative (Lowell Street Alternative), as the environmentally superior alternative. Commission staff and our environmental consultant had worked with Rialto to develop the Lowell Street Alternative, in response to Rialto's concerns that the Alder Subtransmission Source Line Route,

[2] Public Resources Code § 21000 et seq.

as proposed by SCE, presented design conflicts with the City's future development plans.

The Commission held a public comment meeting in Fontana on February 16, 2012. Four individuals spoke and approximately a dozen individuals, organizations or public agencies submitted written statements during or after the DEIR review period. The Final EIR, released eight months later in October 2012, identifies and addresses all comments. Based on consideration of the comments and additional analysis, the FEIR revises the environmental assessment for a portion of each subtransmission source line route.

The October 2012 FEIR advises that the path of the Lowell Street Alternative may be infeasible for socioeconomic and policy reasons, which would leave the Proposed Project's design for the Alder Subtransmission Source Line Route as the environmentally superior alternative along that route. The FEIR also determines that the Flood Control District Right-of-Way (ROW) Alternative (Flood Control District Alternative), which revises the path of part of the Etiwanda Subtransmission Source Line Route, is environmentally superior to SCE's Proposed Project and to the No Project alternative.

On May 17, 2013, based on additional input from SCE, the Commission's environmental consultant issued an Appendix I to the FEIR that provides additional environmental analysis.[3] Appendix I to the FEIR determines that the new information shows the Flood Control District Alternative to be infeasible for technical reasons. However, Appendix I to the FEIR also examines the potential

[3] Appendix I to the FEIR is entitled the "Falcon Ridge Substation Project Intex Alternative" and is attached to today's decision as Appendix 1.

environmental impacts associated with a variation of the Flood Control District Alternative, based on a routing design change along that portion of the Etiwanda Subtransmission Source Line Route. This routing variation, referred to as the Intex Alternative, avoids the technical problems associated with the Flood Control District Alternative. After review of all environmental resources, Appendix I to the FEIR identifies the Intex Alternative, which otherwise incorporates the design of the Proposed Project, as the environmentally superior alternative.

5. Scope of Issues

As discussed above, pursuant to GO 131-D, in order to issue a permit to construct the Commission must comply with the requirements of CEQA, including notice. In addition, pursuant to GO 131-D and Decision (D.) 06-01-042, the Commission must ensure that a project's design is in compliance with the Commission's policies governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures.

Accordingly, the assigned Commissioner's scoping memo and ruling determined the following issues to be within the scope of the proceeding:

1. What are the significant environmental impacts of the proposed project?
2. Are there potentially feasible mitigation measures that will eliminate or lessen the significant environmental impacts?
3. As between the proposed project and the project alternatives, which is environmentally superior?
4. Was the EIR completed in compliance with CEQA, did the Commission review and consider the EIR prior to approving the project or a project alternative, and does the EIR reflect the Commission's independent judgment?

5. Are the mitigation measures or project alternatives infeasible?

6. To the extent that the proposed project and/or project alternatives result in significant and unavoidable impacts, are there overriding considerations that nevertheless merit Commission approval of the proposed project or project alternative?

7. Are the proposed project and/or project alternative designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?

6. Project Alternatives

As an aid to describing and discussing the Project alternatives, we first describe in detail the respective paths, as initially described in SCE's Proposed Project, for each of the two separate subtransmission source line routes to the Falcon Ridge substation. The following descriptions are drawn from the Draft EIR at 2-11 and 2-12. (See also DEIR, Figure 2-2 at 2-5.)

- Alder Subtransmission Source Line Route. This approximately 3 mile subtransmission line would connect the existing Alder substation with the proposed Falcon Ridge substation. The Alder substation is sited south of the 210 Freeway and east of Locust Avenue in Rialto. As initially proposed, the subtransmission line would leave the Alder substation on existing structures for about 600 feet west, then extend north spanning the 210 Freeway and paralleling Locust Avenue to the intersection with West Casmalia Street, then travel west on West Casmalia Street to the intersection with Mango Avenue, and finally travel north along the future extension of Mango Avenue to the new Falcon Ridge substation.

- Etiwanda Subtransmission Source Line Route. This approximately 9 mile subtransmission line would connect the existing Etiwanda substation with the proposed Falcon Ridge substation. The Etiwanda substation is sited south of Foothill Boulevard and West of Etiwanda Avenue. As initially proposed, the subtransmission line would exit the Etiwanda substation in a new duct bank, underground, for 1,300 feet to the east side of Etiwanda Avenue and then rise aboveground, where it would continue northeast in SCE's existing ROW to the intersection with South Highland Avenue. There the line would run underground for approximately 300 feet to provide required electrical clearances with the existing 500 kV transmission line before rising aboveground and diverting from SCE's existing ROW for approximately 0.75 miles. The path of the diversion would be east, paralleling South Highland Avenue to the intersection of South Highland Avenue and San Sevaine Road; then north, parallel to San Sevaine Road and spanning the 210 Freeway at right angles until San Sevaine Road intersects with SCE's existing transmission ROW. From this point the line would resume its northeast path within the existing ROW to Summit Avenue and finally travel east within the existing ROW to the new Falcon Ridge substation.

The EIR evaluates the following alternatives to the Project:

- No Project Alternative. This assumes no development and existing undeveloped use at the site of the proposed Falcon Ridge substation; therefore, the current environmental setting would be maintained. SCE's demand forecasts, updated in its Exhibit 3 prepared testimony, show construction of the Project is needed to meet projected demand beginning in 2014 and beyond.

- Lowell Street Alternative. This configuration, proposed by Rialto, realigns part of the Alder Subtransmission Source Line Route but otherwise incorporates SCE's Proposed Project. The path deviates from the Proposed Project after spanning the 210 Freeway. It continues north on Locust Avenue past the intersection with West Casmalia Street to the intersection with Lowell Street, where the line then travels west to North Alder Avenue, then south to Summit Avenue and finally, west along Summit Avenue to Mango Avenue and the Falcon Ridge substation. This route effectively bisects the operations of an existing business, Rialto Concrete Products. (See also DEIR, Figure 3-1 at 3-14.)

- Flood Control District Alternative. This configuration realigns part of the Etiwanda Subtransmission Source Line Route but otherwise incorporates SCE's Proposed Project. The path deviates from the Proposed Project's route after the first intersection with South Highland Avenue, where this alternative leaves SCE's existing ROW and crosses the 210 Freeway perpendicularly. This alternative then continues east, paralleling South Highland Avenue to the intersection of South Highland Avenue and San Sevaine Road, where it turns north and eventually re-joins the existing SCE ROW north of the 210 Freeway. (See also FEIR, Figure 2-2 at 2-17.)

- Intex Alternative. This configuration realigns part of the Etiwanda Subtransmission Source Line Route through a slightly different path than the Flood Control District ROW Alternative but otherwise incorporates SCE's Proposed Project. This alternative continues northeast within SCE's existing ROW until it reaches a ROW owned and maintained for flood control purposes by the San Bernardino Flood Control District. This alternative travels eastward within that ROW to the intersection with San Sevaine Road. From that point, this alternative reconnects with the route for SCE's Proposed Project before crossing the 210 Freeway in a perpendicular manner that Caltrans prefers. This alternative crosses the back of the

> Intex property near the existing flood control channel and freeway rather than along South Highland Avenue. (See FEIR at 2-18.)

Thirteen other alternatives were identified but eliminated from full Environmental Impact Report (EIR) evaluation because, for example, they created additional impacts without substantially reducing those identified for the Proposed Project, failed to meet Project objectives, etc.

In addition, in its 2013 prepared testimony, Rialto advanced a variant of the Lowell Street Alternative, using Tudor Street rather than Lowell Street as the path westward from Locust Avenue across the B.F. Goodrich Superfund Site. The Tudor Street version "would go north along Locust Avenue (following Alternative 1) then turn West on Tudor Street, south on Alder Street, west on Summit Avenue, then north on Mango Avenue to the Falcon Ridge station." (Exhibit 10 at 3.) As we discuss below, environmentally this routing variant is similar in many respects to the Lowell Street Alternative.

6.1. Environmental Impacts

Next we examine the potential environmental impacts for the Proposed Project and each of the fully developed alternatives. The EIR review found no adverse impacts (Class IV) in the following two resource areas: agriculture and forest resources; public services. Identified potential impacts were less than significant (Class III) in the following eight resource areas: energy conservation; geology and soils; greenhouse gas emissions; hydrology and water quality; land use and planning; mineral resources; population and housing; and utilities and service systems. In five resource areas, the EIR review found the potential for significant impacts that could be mitigated to less than significant (Class II) through identified mitigation measures: biological resources; cultural resources; hazards and hazardous materials; recreation; and transportation and traffic.

However, in three resource areas – aesthetics, air quality, and noise – the EIR review found likely significant and unavoidable (Class I) impacts.

6.1.1. Aesthetics

The Proposed Project and the Lowell Street Alternative (which is a variation of the Proposed Project along the Alder Subtransmission Source Line Route) would have similar significant and unavoidable impacts on aesthetics. The potential for significant and unavoidable impacts is attributable to the permanent, adverse effect of the new 66 kV towers, lines and conductors on the scenic vista of the San Bernardino and San Gabriel Mountains in the background to the north, as viewed along the Etiwanda Subtransmission Source Line Route, particularly from South Highland Avenue.

The Flood Control District Alternative (which is a variation of the Proposed Project along the Etiwanda Substransmission Source Line Route) and the Intex Alternative would reduce the aesthetic impact from South Highland Avenue to adverse but less than significant. The path of the Intex Alternative, located slightly further to the north of the Flood Control District Alternative, would increase the distance between viewers and the subtransmission line and would not block the mountain vistas.

6.1.2. Air Quality

Project construction would occur within the South Coast Air Basin, which has the worst air quality in the nation, according to the South Coast Air Quality Management District and it would create immitigable significant and unavoidable impacts on that air quality. Though the impacts are considered to be temporary because they would cease once construction finished, they would include generation of Mono-Nitrogen Oxides (NO_x) and Particulate Matter (PM10) emissions in violation of ozone and air quality standards. The NO_x

emissions primarily would be associated with the on-site diesel construction and the most of the PM10 emissions would be associated with fugitive dust from ground disturbance and vehicle traffic on unpaved roads. The emission of other criteria pollutants would be cumulatively considerable as well. All of the alternatives (other than the No Project Alternative) would have similar significant and unavoidable impacts on air resources during construction, though the Lowell Street Alternative is projected to impose the lowest among the significant impact projections. The Lowell Street Alternative would reduce PM10 and PM2.5 emissions by about 16% per day compared to the Proposed Project.

6.1.3. Noise

For noise, construction of any of these alternatives (other than the No Project Alternative) would result in an immitigable significant and unavoidable impact along portions of the Etiwanda Subtransmission Source Line Route. Construction use of one or more pieces of heavy equipment likely would conflict with the exterior noise standards established by the City of Rancho Cucamonga Municipal Code, at lease for short periods of time. Though Mitigation Measure 4.13-1 in the Mitigation Monitoring, Reporting, and Compliance Program (MMRCP) would require SCE and/or its contractors to develop, in coordination with the City, a plan to reduce construction noise, compliance with City standards would remain unattainable.[4]

[4] A version of the MMRCP dated December 2013 is attached to today's decision as Appendix 2.

6.2. Infeasibility Findings

Infeasibility findings in the FEIR militate for elimination of the Lowell Street Alternative and, in Appendix I to the FEIR, for elimination of the Flood Control District Alternative. This leaves the Intex Alternative (which incorporates SCE's initial proposal for the Alder Subtransmission Source Line Route) as the environmentally superior alternative.

SCE's Exhibit 4 prepared testimony supports these findings. However, in its Exhibits 9, 11, and 12 prepared testimony, Rialto raises a number of challenges to construction of SCE's Proposed Project along the Alder Subtransmission Source Line Route and in Exhibit 10, proposes a new, partial redesign of the Lowell Street Alternative, using Tudor Street. As we discuss below, we conclude that the Tudor Street routing variant is infeasible.

6.2.1. Infeasibility of the Lowell Street Alternative

While the DEIR concludes that Rialto's preferred route, the Lowell Street Alternative, is environmentally superior to SCE's Proposed Project because of its slightly lower – though still unavoidable and significant – impact on air quality, the FEIR includes findings that question the socioeconomic feasibility of the Lowell Street Alternative. SCE's Exhibits 1 and 4 witnesses also assert that the Lowell Street Alternative is infeasible, not only for socioeconomic reasons, but also for technical and environmental reasons.

Based on information learned after release of the DEIR (that is, information in comments on the DEIR, etc.), the FEIR identifies several problems with the Lowell Street Alternative. The path along Lowell Street would cross a portion of the area within the B.F. Goodrich Superfund Site cleanup plan that is now

privately owned and occupied by a local business, Rialto Concrete Products.[5] Thus, if built along the Lowell Street path, the subtransmission line effectively would bisect the land on which Rialto Concrete Products conducts daily operations and according to comments on the DEIR likely would impede operations enough to force closure of the business. Rialto Concrete Products is one of two remaining manufacturers of highly specialized, precast pipe products in Southern California (prior to the economic downturn in 2008, there were five such businesses). The FEIR states:

> Approximately 90 percent of Rialto Concrete Products' current customers are branches of the government, including the state, counties, cities, and local flood control districts; commercial entities make up the remaining 10 percent. If Rialto Concrete Products ceased to operate, it may be difficult for its government agency customers to locally source necessary building materials without having to go through the additional procedural requirements necessary to contract sole course. Any resulting delays could affect the duration of infrastructure projects and local employment. Any increase in the transport distance of such materials (e.g., from Nevada) could result in substantial increased fuel use, air emissions, noise, and traffic impacts within California that could be avoided by maintaining local competitive sourcing options. (FEIR at 2-14.)

[5] The Goodrich Superfund Site, approximately 160 acres, includes groundwater and soil contaminated by perchlorate anion and the volatile organic compound trichloroethene. Both may cause adverse effects on human health. The Lowell Street Alternative would cross two study areas where perchlorate was detected at depths between 3.5 and 25 feet below ground surface at concentrations of 22 to 9,000 parts per billion. Rialto's proposed Tudor Street variant would run further to the north, through approximately 10 study sites which are within the primary contamination area.

Under CEQA, "feasibility" means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Res. Code § 21061.1; 14 Cal. Code Regs. § 15364.) Citing statute and case law, the FEIR, at 2-13 through 2-15, observes that the following specific, socioeconomic factors may support an infeasibility finding: the loss of a substantial contribution to the local economy (Rialto Concrete Products is one of Rialto's 25 largest sales tax generators and with approximately 100 employees, is one of Rialto's top employers); the impact of that loss on the social and economic realities of the region (the slow economic recovery does not offer comparable, alternative employment opportunities); and the loss of employment opportunities for highly trained employees (e.g., pipe machine operators and specially-skilled forklift and crane operators). All of these factors support elimination of the Lowell Street Alternative. In addition, SCE's unrebutted prepared testimony on technical infeasibility is persuasive that ongoing operations at Rialto Concrete Products would be incompatible with the construction and maintenance of a subtransmission line across the property, given the massive size of some of the pipes produced and stored onsite and the height of the cranes used to lift them.

The record on environmental infeasibility is mixed but on balance, it also militates against the feasibility of the Lowell Street Alternative. The DEIR determined that while the proximity of the Lowell Street path to the Goodrich Superfund Site contamination study area posed the risk of encountering soil contamination during construction, this risk could be mitigated to a less than significant level and that the risk of exposure to groundwater contamination was remote given its depth below the surface. The FEIR supports this assessment. Exhibits 1 and 4 and SCE's opening and reply briefs, however, assert SCE's

concerns not only about health risks to workers who might come into contact with contaminated soil, but also about the potential for legal liability, should SCE commence work in any part of the Superfund Site.

On September 10, 2013, concurrently with the filing of its reply brief, SCE filed a request for judicial notice of two documents: the June 2013 Fact Sheet on the B.F. Goodrich Superfund Site released by the U.S. Environmental Protection Agency (USEPA) entitled "Agreements End Nine Years of Litigation – Cleanup Work Processing," and the Consent Decree between the USEPA and Rialto Concrete Products filed on July 2, 2013 in the federal district court in which the matter has been pending.[6] The fact sheet provides USEPA's own update on the status of the litigation settlement and the impending remediation activities at the Superfund Site, explaining that that USEPA has assigned responsibility for the costs of cleanup activities to a number of potentially responsible parties.[7] The consent decree with Rialto Concrete Products memorializes the agreement by which that business has assumed responsibility for some of the remediation costs based on its ownership and/or use of part of the Superfund Site. As SCE points out, requiring construction and maintenance of a subtransmission line on the Superfund Site now could pose various legal complications, including extensive

[6] Under Rule 13.9 of the Commission's Rules of Practice and Procedure, the Commission may take official notice of matters appropriate for judicial notice by the courts of this state under Evidence Code § 450 et seq. Both the fact sheet released by USEPA and the consent decree filed in federal district court are relevant to this permit to construct application, we may take official notice of them under Evidence Code § 452 and we should do so. Accordingly, we grant SCE's request in substantial part.

[7] The USEPA fact sheet estimates the costs of the groundwater cleanup at $50 to $100 million over 30 years.

notice requirements and potential liability for SCE and/or its ratepayers. This risk further supports an infeasibility finding for the Lowell Street Alternative.

Rialto's prepared testimony and briefs contend that the Tudor Street routing variant, which would run a little further to the north of Lowell Street, extending west along Tudor Street and beyond the point where Tudor Street becomes a dead-end, is both environmentally superior to the Proposed Project and feasible. However, Rialto fails to establish either. Rialto prefers the Tudor Street variant because it would preserve the City's future development options along West Casmalia Street.[8] Rialto contends that the presence of a subtransmission line along West Casmalia Street would result in urban blight and that because the Tudor Street variant would avoid most or all of Rialto Concrete Products, it would cure the major problem with the Lowell Street Alternative. The EIR does not support these contentions.

Given the late development of the Tudor Street variant (in Exhibit 10, Rialto's June 6, 2013 prepared testimony), the EIR does not include it for review. Therefore, the record does not clearly establish which existing businesses its path would cross or whether construction and operation of a subtransmission line is compatible with them (a plastics recycling facility, a pyrotechnical manufacturing

[8] Rialto's prepared testimony states that construction of the Proposed Project along Casmalia Street, which is a frontage road for the 210 freeway, would adversely affect aesthetics by placing a new row of subtransmission poles north of the freeway (an existing row of distribution poles runs south of the freeway) and is inconsistent with plans for "the city's largest development project, the Renaissance specific plan, a mixed-use project that would provide housing for thousands and annually bring millions of dollars in tax revenues to the city." (Exhibit 10 at 2.)

and storage facility and the northern boundary of Rialto Concrete Products are all within the vicinity of the likely route).[9]

What is persuasive, however, is that the path of the Tudor Street variant through the major area of contamination within the Superfund Site presents serious concerns. Now that legal liability for cleanup activities and costs finally has been apportioned among landowners and businesses, the first phase of cleanup at the Superfund Site will soon begin, subject to detailed requirements and oversight. We cannot deem it prudent to risk saddling SCE or its ratepayers with the potential for collateral responsibility for cleanup costs attributable to alleged construction actions or omissions in connection with the Project. It is reasonable to find the Tudor Street variant to be infeasible on this basis. While SCE points out that Rialto has advanced this Tudor Street proposal more than six months after release of the FEIR, because we find it to be infeasible, we need not rule on the timeliness nor further consider the specific environmental consequences associated with its construction.

6.2.2. Infeasibility of the Flood Control District Alternative

As compared to the Proposed Project, the FEIR determines that the Flood Control District Alternative is environmentally superior. However, this determination was revisited after SCE provided additional information about the technical problems associated with that routing for that portion of the Etiwanda Subtransmission Source Line Route, given the existing width and side slope of

[9] Though SCE and Rialto claim, respectively, that constructing the Tudor Street variant would be more costly or less costly than constructing the comparable portion of the Proposed Project, the record is unclear on this point and moreover, that issue is not dispositive here.

the available property. To avoid construction and operations and maintenance issues, SCE proposed a slight rerouting, termed the Intex Alternative, which moves the route about 20 feet south and locates it entirely on property owned by Intex, rather than partially on Intex's land and partially on land owned by the San Bernardino Flood Control District. Prepared testimony from Intex, Exhibit 13, endorses the Intex Alternative. The San Bernardino Flood Control District endorses it as well.

In response to the new information from SCE, the Commission's environmental consultant analyzed the potential environmental impacts of the Intex Alternative in prepared Appendix I to the FEIR. The Intex Alternative is feasible.

7. Environmentally Superior Alternative

The additional environmental analysis in Appendix I to the FEIR establishes that the Intex Alternative is environmentally superior to the Proposed Project because its aesthetic impact would result in a less than significant (rather than significant and unavoidable) impact on views from South Highland Avenue along the Etiwanda Subtransmission Source Line Route. While in other respects the Intex Alternative generally would result in the same impact conclusions as the Proposed Project, because the Intex Alternative would remove the subtransmission line route from South Highland Avenue and locate it slightly further north, thereby increasing the distance between viewers and the subtransmission line, it would not block views of the San Bernardino and San Gabriel Mountains in the background to the north. In addition, the Intex Alternative would cause incrementally reduced impacts to noise and air quality relative to the Proposed Project because it would be located farther away from

sensitive receptors. For these reasons, the Intex Alternative is environmentally superior to the Proposed Project.

As compared to the Flood Control District Alternative, which has been shown to be technically infeasible and therefore must be eliminated, the air quality impacts of the Intex Alternative are projected to be somewhat higher. However, solely for informational purposes, we observe that the potential environmental impacts for each of these two alternatives results in findings of the same order of significance (e.g., Class ranking).

8. Certification of EIR; Identification of Reference Exhibits

The EIR was completed after notice and opportunity for public comment on the scope of the environmental review and the draft EIR, as required by CEQA. The Final EIR documents all written and oral comments made on the draft EIR, and responds to them, as required by CEQA. As also required by CEQA, the EIR examines the environmental impacts of the Proposed Project and a number of alternatives, including the No Project Alternative; it identifies their significant and unavoidable environmental impacts and the mitigation measures that will avoid or substantially lessen them, where possible. The EIR documents the consideration and comparison of the various alternatives, and the analysis of infeasibility, that has resulted in identification of the Intex Alternative as the environmentally superior alternative pursuant to CEQA.

We have reviewed and considered the information contained in the EIR and believe it meets the requirements of CEQA. We certify that the EIR has been completed in compliance with CEQA, that the EIR was presented to us and we have reviewed and considered the information contained in it, and that the EIR reflects our independent judgment and analysis.

Accordingly, we identify the EIR as a reference exhibit and receive it into the record of this proceeding, as follows:

a. Reference Exhibit A – Draft Environmental Impact Report for Southern California's Falcon Ridge Substation Project, January 2012;

b. Reference Exhibit B – Final Environmental Impact Report for Southern California's Falcon Ridge Substation Project, October 2012; and

c. Reference Exhibit C – Appendix I to Final Environmental Impact Report, Falcon Ridge Substation Project Intex Alternative, October 2012.

9. Overriding Considerations

Pursuant to CEQA Guidelines § 15093, the Commission may only approve a project that results in significant and unavoidable impacts upon a finding that there are overriding considerations. Such considerations exist here, since absent construction of the Project, SCE risks an inability in the near term, as early as 2014-2015, to serve forecasted demand in the area. In response to Exhibits 7 and 8, the prepared testimony on behalf of Mitchell Land Co., SCE's Exhibit 4 corrects an error in Exhibit 1 that suggested that a 1–in–10 year heat storm condition is present when the effective temperature exceeds the 10-year average peak effective temperature by four degrees Fahrenheit, rather than six degrees Fahrenheit. Exhibit 4 then states:

> SCE continues to project that electric demand under 1-in-10 year heat storm conditions – 287 MVA [Megavolt Ampere] – will exceed the existing capacity in the ENA [Electrical Needs Area] of 277 MVA beginning in 2014 (by 10 MVA). SCE cannot accommodate a projected 10 MVA overload using existing infrastructure [fn omitted]. (Exhibit 4 at 9.)

This unrebutted testimony informs our finding that overriding considerations warrant construction of the Project, in the form of the Intex Alternative.

10. EMF

The Commission has examined EMF impacts in several previous proceedings, concluding that the scientific evidence presented in those proceedings was uncertain as to the possible health effects of EMFs.[10] Therefore, the Commission has not found it appropriate to adopt any related numerical standards. Because there is no agreement among scientists that exposure to EMF creates any potential health risk, and because CEQA does not define or adopt any standards to address the potential health risk impacts of possible exposure to EMFs, the Commission does not consider magnetic fields in the context of CEQA and determination of environmental impacts.

However, recognizing that public concern remains, we do require, pursuant to GO 131-D, Section X.A, that all requests for a permit to construct include a description of the measures taken or proposed by the utility to reduce the potential for exposure to EMFs generated by the proposed project. We developed an interim policy that requires utilities, among other things, to identify the no-cost measures undertaken, and the low-cost measures implemented, to reduce the potential EMF impacts. The benchmark established for low-cost measures is 4% of the total budgeted project cost that results in an EMF reduction of at least 15% (as measured at the edge of the utility ROW).

[10] *See* D.06-01-042 and D.93-11-013.

SCE's Field Management Plan, filed as Appendix G to SCE's application, details the measures that SCE has proposed at part of the Project. These measures include, to the extent practicable, placing substation infrastructure towards the center of the substation, away from property lines (i.e., transformers, switchbacks, capacitor banks, electric bus equipment and underground cable duct banks) and ensuring at least 5 feet between 66 kV conductors, using a post-mounted design (as opposed to a pole-head configuration design. Contrary to the assertion in the Constant prepared testimony, Exhibit 6, the Commission has not established a 200 feet ROW to reduce EMF exposure around 66 kV lines.

11. Conclusion

Given all of the discussion above, we conclude that SCE should be granted a permit to construct the Project, based on the design of the Intex Alternative, which includes the following components: the Proposed Project's proposal for the Falcon Ridge substation; the Proposed Project's proposal for the Alder Subtransmission Source Line Route; and the version of the Etiwanda Subtransmission Source Line Route detailed in the Intex Alternative description.

We approve the Intex Alternative subject to the mitigation measures set forth in the MMRCP attached as Appendix 2 to today's decision. This version of the MMRCP was prepared by the Commission's environmental consultant in December 2013 to include mitigation measures specific to the Intex Alternative (specifically, Impact Intex Alternative BIO-1 and BIO-2 at H-18 and H-19).

Further, we note that Energy Division may approve requests by SCE for minor project refinements that may be necessary due to final engineering of the Project so long as such minor project refinements are located within the geographic boundary of the study area of the EIR and do not, without mitigation, result in a new significant impact or a substantial increase in the severity of a

previously identified significant impact based on the criteria used in the environmental document; conflict with any mitigation measure or applicable law or policy; or trigger an additional permit requirement. SCE shall seek any other project refinements by a petition to modify today's decision.

12. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed January 10, 2014 by James Constant (Constant) and on January 23, 2014 by SCE; SCE filed reply comments on January 28, 2014.

SCE's comments point out two errors in the proposed decision and we have corrected both, including related erroneous inferences. First, the proposed decision incorrectly describes the electric voltage parameters of the Falcon Ridge substation as 66/16 kV; however, 66/12 kV is correct. Second, the proposed decision misstates the aesthetic impact conclusions of the Draft and Final EIR, which find that aesthetic impacts potentially could be significant and unavoidable at only one location (on South Highland Avenue near San Sevaine Road).

Mr. Constant's comments and SCE's reply concern the proposed decision's EMF discussion. Mr. Constant contends that the proposed decision ignores reference in his Exhibit 6 prepared testimony to setback requirements in Title 5, § 14010(c) of the California Code of Regulations for easements for 50-133 kV and 220–230 kV lines. Mr. Constant asserts that, "[t]he issue is not whether science is uncertain as to the possible health effects of EMFs but whether enacted law Title 5, Section 14010(c), which adopts specific setbacks for allaying public

concerns, pre-empts CEQA as an EMF setback law." (Mr. Constant's comment at 1.)

However, as SCE's reply comments argue, the law on which Mr. Constant relies applies to public school district siting of new schools and is inapplicable here.

13. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Jean Vieth is the assigned ALJ in this proceeding.

Findings of Fact

1. The Proposed Project would have significant and unavoidable adverse impacts on aesthetics, air quality, and noise. The Proposed Project with either the Flood Control District Alternative or Intex Alternative would have significant and unavoidable adverse impacts on air quality and noise, and would avoid the significant and unavoidable adverse impacts on aesthetics.

2. The Falcon Ridge substation project's Intex Alternative is the environmentally superior alternative.

3. The Commission has reviewed and considered the information contained in the EIR.

4. The EIR reflects the Commission's independent judgment and analysis.

5. The Lowell Street Alternative is infeasible for socio-economic and technical reasons, including the potential financial risk to SCE and/or its ratepayers of collateral responsibility for Superfund Site cleanup costs in connection with Project construction.

6. The Flood Control District Alternative is technically infeasible.

7. The Tudor Street variant of the Lowell Street Alternative is infeasible for economic reasons, given the potential financial risk to SCE and/or its ratepayers

of collateral responsibility for Superfund Site cleanup costs in connection with Project construction.

8. Given the infeasibility of the Lowell Street Alternative and the Flood Control District Alternative, the Intex Alternative is the environmentally superior alternative.

9. The Falcon Ridge substation project will enable SCE to continue to serve forecasted demand in the Electrical Needs Area in the near term and beyond.

10. The Falcon Ridge substation project, as constructed based on the Intex Alternative, incorporates no-cost and low-cost measures to reduce potential EMF impacts to the extent practicable, by placing substation infrastructure towards the center of the substation, away from property lines (i.e., transformers, switchbacks, capacitor banks, electric bus equipment and underground cable duct banks) and by ensuring at least 5 feet between 66 kV conductors, using a post-mounted design (as opposed to a pole-head configuration design.

Conclusions of Law

1. The EIR was completed in compliance with CEQA.

2. Under Rule 13.9 of the Commission's Rules of Practice and Procedure, official notice may be taken of matters that may be judicially noticed. Accordingly, we should grant in substantial part SCE's Request for Judicial Notice in Support of its Reply Brief, filed September 10, 2103, and take official notice of the following documents: the June 2013 Fact Sheet on the B.F. Goodrich Superfund Site released by the USEPA entitled "Agreements End Nine Years of Litigation – Cleanup Work Processing," and the Consent Decree between the USEPA and Rialto Concrete Products filed on July 2, 2013 in the U.S. district court in which the matter has been pending.

3. The Lowell Street Alternative and the Flood Control District Alternative are both legally infeasible.

4. The EIR should be identified as a reference exhibit and received into the record of this proceeding, as follows:

a. Reference Exhibit A – Draft Environmental Impact Report for Southern California's Falcon Ridge Substation Project, January 2012;

b. Reference Exhibit B – Final Environmental Impact Report for Southern California's Falcon Ridge Substation Project, October 2012; and

c. Reference Exhibit C – Appendix I to Final Environmental Impact Report, Falcon Ridge Substation Project Intex Alternative, October 2012.

5. The Falcon Ridge substation project, as constructed based on the Intex Alternative, will enable SCE to continue to serve forecasted demand in the Electrical Needs Area in the near term and beyond, and thus, provides overriding considerations that support our approval of it, despite its significant and unavoidable impacts on aesthetics, air quality, and noise.

6. The Project design is consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.

7. SCE should be granted a permit to construct the Falcon Ridge substation project, using the Intex Alternative, in compliance with the version of the Final EIR's MMRCP dated December 2013 and attached to this order as Appendix 2.

8. This proceeding should be closed.

9. This order should be effective immediately to ensure that SCE may continue to meet demand in the electrical needs area without delay.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company is granted a Permit to Construct the Falcon Ridge substation project, using the Intex Alternative (discussed in Appendix 1 to this order), in compliance with the version of the Final Environmental Impact Report's Mitigation Monitoring, Reporting, and Compliance Program dated December 2013 (Appendix 2 to this order).

2. The Commission's Energy Division may approve requests by Southern California Edison Company (SCE) for minor project refinements that may be necessary due to final engineering of the Falcon Ridge substation project so long as such minor project refinements are located within the geographic boundary of the study area of the Environmental Impact Report (EIR) and do not, without mitigation, result in a new significant impact or a substantial increase in the severity of a previously identified significant impact based on the criteria used in the EIR; conflict with any mitigation measure or applicable law or policy; or trigger an additional permit requirement. SCE shall seek any other project refinements by a petition to modify today's decision.

3. The version of the Final Environmental Impact Report's Mitigation Monitoring, Reporting, and Compliance Program, dated December 2013 and attached to this order as Appendix 2, is adopted.

4. The Environmental Impact Report is identified as a reference exhibit and received into the record of this proceeding, as follows:

   a. Reference Exhibit A – Draft Environmental Impact Report for Southern California's Falcon Ridge Substation Project, January 2012;

b. Reference Exhibit B – Final Environmental Impact Report for Southern California's Falcon Ridge Substation Project, October 2012; and

c. Reference Exhibit C – Appendix I to Final Environmental Impact Report, Falcon Ridge Substation Project Intex Alternative, October 2012.

5. No evidentiary hearings are necessary.

6. Southern California Edison Company's Request for Judicial Notice in Support of its Reply Brief (Request), filed September 10, 2103, is granted in substantial part and we take official notice of the following documents attached to the Request: the June 2013 Fact Sheet on the B.F. Goodrich Superfund Site released by the U.S. Environmental Protection Agency (USEPA) entitled "Agreements End Nine Years of Litigation – Cleanup Work Processing," and the Consent Decree between the USEPA and Rialto Concrete Products filed on July 2, 2013 in the U.S. district court in which the matter has been pending.

7. Application 10-12-017 is closed.

This order is effective today.

Dated February 5, 2014, at San Francisco, California.

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
MICHAEL PICKER
Commissioners