

Decision No. 43889

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 PACIFIC GAS AND ELECTRIC COMPANY, a cor- )  
 poration, for an order of the Public )  
 Utilities Commission of the State of )  
 California authorizing applicant, among )  
 other things, to issue, sell, and deliver )  
 shares of its common capital stock in the ) Application  
 manner, to the amount, and for the purposes ) No. 31016  
 set forth herein; and relieving applicant )  
 of the necessity of complying with the re- )  
 quirements of Section A, 1 of said Commis- )  
 sion's General Order No. 24-A. )  
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Robert H. Gerdes, R. W. DuVal and Frederick T. Searls,  
 for applicant; Dion R. Holm, City Attorney, and  
Paul L. Beck, Chief Valuation and Rate Engineer in  
 the City Attorney's Office, for the City of San  
 Francisco, interested party.

O P I N I O N

In this application, Pacific Gas and Electric Company requests an order of the Commission authorizing it to issue and sell not exceeding 1,656,156 shares of its common stock of the aggregate par value of \$41,403,900. Subject to receiving permission from the Commission, it proposes first to offer said shares of stock, at such price as hereafter may be determined, to the holders of its presently outstanding shares of stock and thereafter to sell to underwriters, at the same price, such of said 1,656,156 shares as have not been subscribed by such stockholders. It asks the Commission to exempt from the requirements of its competitive bidding rule the issue of such shares as may not have been subscribed by its stockholders.

A public hearing on this matter was held on March 1, 1950. No protest was received at the hearing to the granting of the application.

Applicant desires to use the proceeds to be received from the issue of said shares of stock to reimburse its treasury in part on account of capital expenditures made on or prior to November 30, 1949, and/or to pay in part the cost of additions, extensions, betterments or improvements made or to be made subsequent to that date. It reports its unreimbursed capital expenditures as of November 30, 1949, at \$242,826,598.59, of which \$39,525,000 subsequently has been permanently financed with the proceeds from the sale of \$37,500,000 par value of preferred stock which was sold in February, 1950, leaving a balance of expenditures of \$203,301,598.59 which has been provided primarily by earnings and for which the company has not been reimbursed through the issue of securities.

In addition to the unreimbursed expenditures, applicant reports the unexpended balance of its General Manager's authorizations for capital additions and improvements to its properties in progress of construction as of November 30, 1949, at \$182,143,854.02, segregated as follows:

Electric	\$119,881,009.58
Gas	61,274,485.95
Water	289,055.89
Steam Sales	74,136.72
Other Physical Property	2,888.42
Common Utility	<u>622,277.46</u>
Total	<u>\$182,143,854.02</u>

The record indicates that applicant, in financing its capital requirements, is of the opinion that it should undertake the sale of common stock at this time in order to improve its capital

structure. In Exhibit 6 it reports its capital ratios as of December 31, 1949, and after giving effect to the preferred stock issued in February, 1950, and to the proposed issue of common stock, as follows:

	<u>Dec. 31, 1949</u>	<u>Pro Forma</u>
Bonds	54.5%	50.0%
Preferred stock	20.6	22.4
Common equity	<u>24.9</u>	<u>27.6</u>
	<u>100.0%</u>	<u>100.0%</u>

With the resultant capital structure following the proposed issue of common stock, it is believed by applicant that it should be in a position at a later date to accomplish additional debt financing under reasonable terms should that become necessary or desirable.

The testimony in this matter indicates that tentatively applicant is considering the offer of the 1,656,156 shares of common stock to the holders of its presently outstanding shares of common stock of record at the close of business on March 14, 1950, at a price of \$30 a share, being at the rate of one new share for each five presently outstanding, the subscription period for stockholders to extend from March 20, 1950, to April 5, 1950. In order to insure the sale of the entire amount it proposes, subject to receiving authorization from the Commission, to enter into an underwriting agreement for the sale to a syndicate to be headed by Blyth & Co., Inc. of the shares not subscribed or paid for by its stockholders.

The record shows that the proposed underwriting agreement contemplates that the underwriters will purchase said unsubscribed shares from applicant at the same price at which such shares first

are offered to stockholders, and in addition will pay to applicant an amount equivalent to 65% of the excess over such price at which they may dispose of such shares. If any unsubscribed shares shall remain unsold by the underwriters at the close of business after the expiration of 20 full business days following the stockholders' subscription period, such shares shall be deemed to have been sold at the average sales price of applicant's common stock on the New York Stock Exchange on that day, or, if no shares are traded on that day, then at the closing bid price on such exchange. As compensation to the underwriters for their commitments and obligations, applicant will pay to them the sum of 50¢ a share for each of the 1,656,156 shares.

Applicant has filed with the Securities and Exchange Commission a registration statement. It reports that it is unable to determine the exact price for the sale of its shares of stock to the underwriters or to the stockholders until March 14, 1950, when it hopes the statement will become effective, and accordingly it seeks at this time a preliminary order approving the issue of said shares, together with the exemption from competitive bidding to which reference has been made. In due course it will file a supplemental application showing the price at which it proposes to dispose of its stock and will request a final order in this proceeding.

The issue of the shares of stock to applicant's stockholders pursuant to their preemptive rights is exempt from the requirements of the Commission's competitive bidding rule. Applicant asks that an order exempting from such requirements the issue of the unsubscribed shares be made at this time. In support of this request, applicant's treasurer pointed out that due to the

size of the offering and the frequency with which offerings have been made to stockholders there may, and in all probability will, be insufficient subscriptions by them. He testified that applicant has completed about two-thirds of its post-war construction program, that it is necessary for it to obtain funds to complete the same, and that it cannot afford to risk an unsuccessful offering of stock, considering its needs for capital funds. He testified further that the issue of the shares here contemplated requires a strong nationwide group of underwriters rather than smaller groups that might be formed should competitive bidding be ordered, and that in his opinion sales effort and advance market preparation and organization are essential for the successful sale of stock. It should be noted also that the number of shares to be sold to underwriters is indefinite at this time due to the offer first to be made to the stockholders.

Under the conditions surrounding this particular proposed issue as set forth in the record in this proceeding, it appears that the Commission is warranted in exempting the issue of said shares of stock, as requested, from the requirements of its competitive bidding rule. ✓

Applicant's presently outstanding shares of common stock are owned by 85,608 stockholders. It is unable at this time to state how many of said stockholders will exercise the subscription rights to be granted to them. It believes, however, that they will be exercised by such a large number as will warrant it to ask relief from filing with the Commission a report required by the Commission's General Order No. 24-A, which, among other things, calls for the name of each purchaser of stock. Applicant will keep in its office, as a permanent record, a full and complete record with

respect to the subscriptions for shares of its common stock and certificates to be issued. Following the closing date for the exercise by its stockholders of their rights to subscribe for additional shares of common stock, it proposes to make a detailed analysis of the entire transaction for the purpose of determining, among other things, the total number of common stockholders who exercised their subscription rights, as well as the number and percentages of such stockholders having various sizes of holdings who exercised their subscription rights. The Commission will, in lieu of a report under its General Order No. 24-A, receive such report.

O R D E R

The Commission having considered the evidence submitted at the hearing had on this application and being of the opinion that the money, property or labor to be procured or paid for by the issue of 1,656,156 shares of common stock by Pacific Gas and Electric Company is reasonably required by it for the purposes specified herein, that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted, subject to the provisions of this order; therefore,

IT IS HEREBY ORDERED as follows:

1. Pacific Gas and Electric Company, after the effective date hereof, may issue, sell and deliver not exceeding 1,656,156 shares of its common stock to the holders of its presently outstanding shares of common stock at such price as the Commission hereafter may fix by a supplemental order in this proceeding.

2. Pacific Gas and Electric Company, after the effective date hereof, may issue and sell to underwriters such of said 1,656,156 shares of common stock as have not been subscribed and paid for pursuant to the offering to applicant's stockholders, such unsubscribed shares to be sold at such price as the Commission hereafter may fix in a supplemental order in this proceeding. The issue of said shares of stock is hereby exempted from the requirements of the Commission's competitive bidding rule set forth in Decision No. 38614, dated January 15, 1946, provided applicant obtains for said shares a price satisfactory to the Commission.

3. Pacific Gas and Electric Company shall use the proceeds to be received from the issue and sale of said 1,656,156 shares of common stock to reimburse its treasury in part on account of capital expenditures made on or prior to November 30, 1949, and/or to pay in part the cost of additions, extensions, betterments or improvements to its plants, properties and facilities made or to be made subsequent to November 30, 1949.

4. The authority herein granted to issue and sell said 1,656,156 shares of common stock will become effective when the Commission by a supplemental order shall have fixed the price at which said shares of stock may be sold. All other authority granted by this order is effective upon the date hereof.

5. Pacific Gas and Electric Company shall, within six (6) months after the issue, sale and delivery of said shares of stock or any part thereof, file with the Commission a copy of the report referred to in the preceding opinion in lieu of a report under General Order No. 24-A, together with a statement showing the total number of shares sold to stockholders and the total number

sold to underwriters and the consideration received by it.

Dated at San Francisco, California, this 7<sup>th</sup> day  
of March, 1950.

Q. J. Anderson  
Justice F. Casper  
W. H. Luce

Herbert H. Potter  
Commissioners.

Commissioner Harold P. Sals, being  
necessarily absent, did not participate  
in the disposition of this proceeding.