

ORIGINALDecision 84 07 116

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

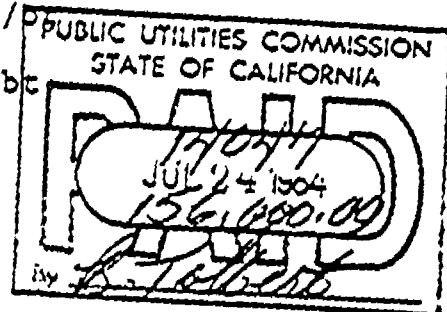
Application of PACIFIC GAS AND)
 ELECTRIC COMPANY to issue, sell)
 and deliver (a) one or more series)
 of its First and Refunding Mortgage)
 Bonds, debentures, promissory notes)
 and/or other evidences of indebted-)
 ness in an aggregate principal)
 amount not exceeding \$500,000,000)
 in connection with domestic or)
 Eurobond offerings; to guarantee)
 the obligations of others in)
 respect of the issuance of)
 securities; to issue shares of its)
 Common Stock upon conversion of)
 another's convertible debentures;)
 and for an exemption from the)
 Competitive Bidding Rule and (b))
 one or more series of its preferred)
 stock with an aggregate par value)
 not exceeding \$75,000,000.)

Application 84-04-116
 (Filed April 23, 1984;
 amended June 1, 1984)

O P I N I O N

Pacific Gas and Electric Company (PG&E) requests
 authority, under Public Utilities (PU) Code Sections 816 through
 830 and 851, for the following:

1. To issue and sell in one or more
 series up to \$500,000,000
 aggregate principal amount of
 PG&E's First and Refunding
 Mortgage Bonds (Bonds),
 debentures, convertible
 debentures, debentures with
 warrants, promissory notes, and/
 other evidences of indebtedness
 (collectively referred to as Debt
 Securities);



2. To unconditionally guarantee or otherwise secure up to \$200,000,000 aggregate principal amount of Bonds, debentures, convertible debentures, debentures with warrants, promissory notes and/or other evidences of indebtedness of Pacific Gas and Electric Finance Company, N.V., or one or more corporations organized and existing under the laws of the Netherlands Antilles (collectively referred to as Finance), plus interest, premium, if any, and other charges on such indebtedness of Finance (Finance Debt) and/or to secure the payment of Finance's Debt obligations or PG&E's guarantee by an issuance of Debt Securities and/or an agreement to issue Debt Securities as part of the \$500,000,000 authority requested;
3. To unconditionally guarantee or otherwise secure up to \$200,000,000 aggregate principal amount of notes or other evidences of indebtedness of subsidiaries or affiliates of PG&E, plus interest, premium, if any, and any other debt service obligations attendant thereto, the notes or other evidences of indebtedness representing borrowings, the proceeds of which will be used to effect, or to repay or reimburse PG&E or any of its subsidiaries, for borrowings in connection with the making of capital contributions to Finance;

4. To issue the number of shares of its Common Stock, in exchange for and upon retirement of Finance Debt and the related Debt Securities, for each proposed series of Finance and related PG&E convertible debentures, upon conversion of the debentures, as may be required from time to time for the purpose under the provisions governing the conversions set forth or to be set forth in the certificates evidencing the Finance Debt and the related Debt Securities and/or indenture(s) and other documents relating thereto under which Finance Debt and the related Debt Securities will be issued;
5. To sell the proposed issue or issues of Debt securities by competitive bidding or by negotiated public offerings or private placements under an exemption from the requirements of the Commission's competitive bidding rule;
6. To issue and sell in one or more series up to (a) 750,000 shares of PG&E's \$100 First Preferred Stock, \$100 par value, or (b) 3,000,000 shares of First Preferred Stock, \$25 par value, in a public offering or a private placement with an aggregate par value up to \$75,000,000 (the \$100 First Preferred Stock, \$100 par value, and the First Preferred Stock, \$25 par value collectively referred to as Preferred Stock);

7. To use the net proceeds (exclusive of accrued interest) to be derived through the issue or issues of Debt Securities and Preferred Stock for (a) the retirement of approximately \$185,000,000 of outstanding First and Refunding Mortgage Bonds (Series U, 75A, 7.90% Series C and 9-3/8% Series A); and (b) the balance, if any, to partially reimburse PG&E's treasury for capital additions and improvements to its utility plant; and
8. To use any accrued interest received in connection with the issue or issues of Debt Securities for general corporate purposes.

On June 1, 1984, PG&E filed an amendment to its application to request that the Commission adopt appropriate findings, conclusions and orders consistent with prior Commission decisions, to the effect that the Commission is not restricted by the California Usury Law in exercising its authority to regulate public utility debt.

Summary of Decision

This decision grants PG&E the authority requested in its application, as amended.

Notices of the filing of the application, as amended, appeared on the Commission's Daily Calendars of April 27, 1984 and June 5, 1984. No protests have been received.

PG&E, a California corporation, operates as a public utility under the jurisdiction of this Commission. PG&E is principally engaged in the business of generating, purchasing, transmitting, and selling electricity and purchasing, transporting, distributing, and selling natural gas to 47 counties in central and northern California. The utility also provides a small amount of incidental water and steam services.

For the year ended December 31, 1983, PG&E reported total operating revenues of \$6,314,619,000 and net income of \$787,967,000 as shown in Exhibit A attached to the application, as amended.

PG&E's Balance Sheet as of December 31, 1983, attached as a part of Exhibit A to the application, as amended, is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$11,620,670,000
Gas Stored underground - Noncurrent	17,114,000
Other Property and Investments	500,660,000
Current and Accrued Assets	1,507,367,000
Deferred Debits	<u>399,304,000</u>
Total	\$14,045,115,000
 <u>Liabilities and Equity</u>	 <u>Amount</u>
Common Stock Equity	\$ 4,926,262,000
Preferred Stock	1,687,451,000
Long-Term Debt	5,324,340,000
Current and Accrued Liabilities	1,306,627,000
Deferred Credits	<u>800,435,000</u>
Total	\$14,045,115,000

As of December 31, 1983, PG&E's construction expenditures unreimbursed from the sale of securities amounted to approximately \$1,908,587,000, as shown in Exhibit B attached to the application, as amended. PG&E's unexpended balance of its General Manager's authorizations for capital additions and improvements under construction as of January 31, 1984, totaled approximately \$1,310,894,000.

PG&E estimates that the cost of capital additions and improvements to its plant, properties and facilities for the years 1984 and 1985 will be approximately \$1,895,000,000 and \$1,728,000,000.

The Commission's Revenue Requirements Division has analyzed PG&E's cash requirements forecasts for the years 1984 and 1985, as indicated by the utility in its revised supplemental data sheets forwarded to the Division on April 30, 1984. The Division has concluded that internally generated funds will provide only 28.8% of construction expenditures for 1984 and 53.7% for 1985. Also, the Division has concluded that the proposed sale of PG&E's securities, as requested in the application, as amended, is necessary to help meet forecasted cash requirements, which include construction expenditures.

The Commission's Revenue Requirements Division has reviewed PG&E's construction budgets for 1984 and 1985, and finds that the proposed sale of the utility's securities, as requested in the application, as amended, is necessary to fund the planned construction. The Division is not finding that the construction is necessary and reasonable nor that the expenditures are reasonable in amount. These are issues normally tested in general rate or rate base offset proceedings.

PG&E's capital ratios as of December 31, 1983, are shown below as recorded and adjusted to give pro forma effect to the transactions that follow:

<u>Component</u>	<u>December 31, 1983</u>	<u>Pro Forma</u>
Long-Term Debt	45%	47%
Preferred Stock	14	14
Common Stock Equity	<u>41</u>	<u>39</u>
Total	100%	100%

1. The proposed issuance and sale of up to \$500,000,000 aggregate principal amount of Debt Securities;
2. The proposed issuance and sale of Preferred Stock with an aggregate par value of up to \$75,000,000;
3. The sale of 2,140,919 shares of Common Stock issued in connection with the Savings Fund Plan that produced net proceeds of approximately \$31,400,000 during the first quarter of 1984. (Authorized by Commission Decisions (D.)82-08-013 and D.83-05-063 dated August 4, 1982 and May 18, 1983 in Applications (A.)82-06-054 and A.83-04-031).

4. The sale of 1,639,758 shares of Common Stock issued in connection with the Dividend Reinvestment and Common Stock Purchase Plan that produced net proceeds of approximately \$23,900,000 during the first quarter of 1984. (Authorized by D.93638 and D.83-05-063 dated October 20, 1981 and May 18, 1983 in A.60897 and A.83-04-031).
5. The sale of \$250,000,000 aggregate principal amount of Series 84A First and Refunding Mortgage Bonds on April 2, 1984. (Authorized by D.83-09-072 dated September 30, 1983 in A.83-08-037).
6. The retirement of \$16,700,000 principal amount of 7.90% Series B First and Refunding Mortgage Bonds on February 16, 1984. (Authorized by D.88471 dated February 7, 1978 in A.57787).

PG&E'S DEBT SECURITIES

PG&E proposes to issue and sell in one or more series up to \$500,000,000 aggregate principal amount of its Debt Securities. The Bonds, as part of the Debt Securities, will be issued in conformity with the provisions of, and secured by, PG&E's First and Refunding Mortgage, dated December 1, 1920, as amended.

The terms and conditions of the proposed Debt Securities offerings, including the price, interest rate, maturity date, redemption provisions and sinking fund, if any, will be determined by market conditions at the time of sale of the Debt Securities, or each series of the Debt Securities.

The Debt Securities, if in the form of unsecured debentures, may be issued in accordance with a debenture indenture or indentures. This debenture indenture would set forth the aggregate principal amount, maturity, default and other material provisions of the debenture.

As part of the \$500,000,000 authorization of Debt Securities requested in the application, as amended, PG&E proposes to issue, sell, and deliver up to \$200,000,000 aggregate principal amount of Debt Securities in connection with Eurodollar offerings.

As the financing structure is presently contemplated by PG&E, Finance, organized under the laws of the Netherlands Antilles, which has favorable tax treaties with the United States, would issue and sell, through one or more offerings to foreign investors, Finance's Debt. PG&E would borrow from Finance the net proceeds of these offerings by issuing one or more series of Debt Securities to Finance. The Debt Securities would have matching terms and conditions to that of the Finance Debt.

The maturity date, interest rate, denomination of currency and other terms and conditions of the Finance Debt will be negotiated at the time of offering because PG&E is informed that there is no effective competitive bidding market for Eurodollar offerings. The terms and conditions of each series of Debt Securities issued to Finance will be determined by PG&E and Finance on the basis of the terms and conditions of Finance Debt.

Because of the volatility of the Eurodollar market, PG&E states that it is impractical at this time to provide the Commission with a meaningful estimate of interest rates or other terms of the proposed issue(s) of Finance Debt and related Debt Securities. However, PG&E states that any type of Finance Debt would be issued and sold, only when the issuances were designed to result in an overall cost of money to PG&E at least as advantageous as issuances of comparable domestic debt in the United States market.

PG&E contemplates that the Finance Debt and related Debt Securities will bear call provisions more favorable than those typically found in domestic debt. Call restrictions will be for a period not greater than five years, and the initial call price will command a premium over par of less than one full year's interest payments. The Finance Debt and related Debt Securities will mature between 3 and 20 years from their date of issuance.

The financing structure that PG&E contemplates also may require that the utility guarantee the obligations of Finance as evidenced by the Finance Debt. Therefore, PG&E requests authorization to unconditionally guarantee Finance's payment of up to \$200,000,000 aggregate principal amount of Finance's Debt, plus premium, if any, interest, and other charges on the Finance Debt.

This guarantee is common in Eurodollar offerings, and PG&E contends its best interest would be served to have the flexibility to effect Eurodollar offerings in a form which is familiar to foreign investors. The obligations of Finance and/or PG&E's guarantee also may be secured by an issuance of a series of Debt Securities. The definitive terms and conditions of a guarantee and/or a security arrangement will be determined at the time of, and be consistent with, each Eurodollar offering.

In addition, PG&E requests authorization to unconditionally guarantee up to \$200,000,000 principal amount of notes or other evidences of indebtedness of subsidiaries or affiliates of PG&E, together with interest and premium, if any, in connection with borrowings for the purpose of making or refinancing capital contributions to Finance. PG&E states that in order for Finance to maintain the debt-to-equity ratio which has been recommended by its tax counsel, capital contributions have been and will be made to Finance by PG&E or its subsidiaries. PG&E states that there may be an advantage for PG&E to cause one of its subsidiaries to borrow money, to be contributed as capital to Finance. PG&E is informed that a guarantee of these borrowings may be required and may result in a lower interest rate. The borrowings could be used to provide capital contributions in future Eurodollar financings, and as a means of replacing or refinancing the equity arrangements in prior Eurodollar financings.

The Finance Debt and Debt Securities may be in the form of convertible debentures, which would be convertible into shares of PG&E's Common Stock. Therefore, PG&E requests authority to issue shares of its Common Stock. Before PG&E can deliver the Common Stock upon conversion of the debentures, the utility would effect any necessary registration of the Common Stock under federal securities laws that may be required.

PG&E indicates that Finance's Debt and the related Debt Securities also may be issued as debentures with warrants attached. The warrants would entitle the bearer to purchase an additional debenture, during a period no longer than the nonredemption period for the original debenture. The additional debenture would pay an interest rate approximately 25 basis points less than the coupon on the original debenture. PG&E is informed that under certain conditions, investors are willing to accept this lower than current market yield, in exchange for the option to purchase an additional debenture with a predetermined interest rate. If debentures with warrants are issued, the total principal amount of debentures originally issued plus debentures to be issued upon exercise of warrants would not exceed \$200,000,000.

PG&E believes opportunities for additional interest rate savings also may exist through issuing Finance Debt denominated in the currency of a foreign country. In relation to the debt obligation in the foreign-denominated currency, exposure to fluctuations in the value of the dollar would be eliminated by one or more forward contracts to purchase the currency or an independent exchange of payment obligations with a dollar-denominated debtor. Generally, PG&E believes that this type of debt will result in rates lower than domestic rates because of a scarcity-value premium on a PG&E issue in a foreign market, where PG&E's securities have not been previously available.

Also, this application, as amended, states that in D.82-05-079 dated May 18, 1982 in A.82-03-034, PG&E was authorized to issue and sell up to \$200,000,000 aggregate principal amount of debt securities in connection with Eurobond financings. Under this authority, PG&E has issued \$135,000,000 aggregate principal amount of debt securities, leaving \$65,000,000 to be issued at a later time. PG&E requests that this application, as amended, supersede the earlier Commission D.82-05-079, insofar as that authorization has not been exercised, and to include the remaining \$65,000,000 authorized by Commission D.82-05-079 as part of the total authorization requested in this application, as amended.

The Commission is aware that if legislation pending before the United States Congress is adopted, eliminating the withholding of taxes on income paid to foreign entities, or if the need to use a Netherlands Antilles subsidiary to issue debt in Europe would become unnecessary, then PG&E would be able to sell its Debt Securities directly in the foreign capital markets. In that event, this proposed decision would authorize PG&E to issue the same type of securities that Finance would have issued.

Request for Exemption from Competitive Bidding

PG&E requests an exemption for the sale of its Debt Securities from the Commission's competitive bidding rule or requirements set forth in D.38614 dated January 15, 1946 in Case 4761, as amended by D.49941, D.75556 and D.81908. PG&E seeks authority to issue and sell the Debt Securities either by competitive bidding or to be exempted so that the Debt Securities may be sold either by means of negotiated public offerings or negotiated private placements, depending on market conditions existing at the time of the proposed sale or sales.

Rules adopted by the Commission in D.38614, in Case 4761, as amended, provide that this Commission may grant exemptions from the competitive bidding requirements, which the Commission has done from time to time, upon a showing of compelling circumstances.

PG&E believes that compelling circumstances exist for requesting such an exemption for this proposed financing and alleges that the exemption would afford the utility the flexibility to meet its financial requirements on the most favorable terms available.

PG&E states that its management is engaged in rigorous cost-cutting and budgeting efforts and that the utility's ability to be efficient in the management of financing costs would be restricted by competitive bidding requirements for debt offerings. PG&E states that a waiver of the rule will remove a restriction on the ability of PG&E to be efficient in the management of its financing costs, which are, or will be established at certain assumed rates in its most recent general rate case.

In addition to the foregoing reasons, PG&E states that there are a number of considerations that would make the required use of competitive bidding a disadvantageous method of selling debt offerings:

1. Current market conditions indicate a continued period of volatile interest rates, due in part to investor uncertainty regarding inflation and the large demand for long-term funds by both government and private industry. These conditions are expected to persist for the foreseeable future. The bond markets are experiencing rate fluctuations, making the timing and the setting of terms of any issue extremely important.

Negotiated offerings provide greater flexibility to adjust the timing and terms of proposed offerings to meet these changing market conditions than would be available through the competitive bidding process.

2. Competitive bidding divides the shrinking investment banking community into several competing selling efforts. In negotiated offerings, the entire investment banking community is available to be formed into a selling syndicate with those firms best able to market the securities. In competitive bidding, firms with relatively good underwriting and marketing abilities might well be members of an unsuccessful group. Thus their sales strength may be lost.
3. Since the adoption of Rule 415 by the Securities and Exchange Commission in 1982, an issuer now has the possibility to file a "shelf" registration statement for an offering and then be prepared to negotiate on very short notice with prospective underwriters. This technique allows issuers to take advantage of favorable rates on an expedited basis, which may not be available in the context of competitive bidding.
4. PG&E believes that the terms and conditions of private placement sales can be tailored to meet the requirements of institutional investors, in order to obtain a more favorable interest rate on the Debt Securities than that available through public offerings.

5. By its nature, a competitively bid offering seeks to appeal to a broad segment of the market, and as such, is structured to provide terms which are generally familiar to the market. However, in today's markets, the needs of investors have become more diverse and the market increasingly segmented. PG&E believes there are periods when negotiated public offerings or private placements can be structured to appeal to one or more of these market segments. Because of specific investment criteria, these market segments are willing to accept a lower rate of return on transactions tailored to their needs, thereby enabling PG&E to achieve a lower cost of capital than is available through competitive bidding.
6. PG&E also believes there are periods in which the international markets are more favorable than domestic markets. Accordingly, PG&E seeks the flexibility to negotiate a foreign private placement with financial institutions, international trading companies or governmental agencies, including the authority to have the Finance Debt and the related Debt Securities payable in a foreign currency.
7. The interest rate and other terms and conditions of Finance Debt offered by Finance must be determined on a negotiated basis. Unlike the domestic bond market, there is no competitive bidding market for Eurobonds. In any event, PG&E's Debt Securities must be privately placed on a negotiated basis with Finance.

Unless the Commission authorizes an exemption from the competitive bidding rule, PG&E will be precluded from participating in Eurobond financings. Previously, the Commission has granted PG&E an exemption from the competitive bidding rule, to enable the utility to participate in Eurobond offerings.

Because of these factors, PG&E believes that the sale of its Debt Securities through negotiations would enable PG&E to obtain a cost of money at least as low as, if not lower, than if the cost of money were determined by sale at competitive bidding. Furthermore, PG&E believes that it is in the public interest that the proposed issue of Debt Securities be exempted from the requirements of competitive bidding.

We are persuaded that an inflexible adherence to the requirements of the competitive bidding rule may not be in the public interest, given PG&E's need for large amounts of capital in a period of increasing competition for available funds. Moreover, the Federal Government's need to finance extraordinary budget deficits, while the private sector borrowing demands are expanding, has put upward pressure on interest rates. These considerations warrant granting PG&E maximum flexibility in this financing program.

Consequently, for this amended application only, we will authorize PG&E to proceed on either competitive bidding, negotiated public offerings or private placements, according to PG&E's estimation of where the most favorable opportunity lies.

If PG&E chooses to issue and sell the Debt Securities by means of private placements or negotiated public offerings, we place PG&E on notice that in its next general rate proceeding before the Commission, the reasonableness of the resulting interest rate and cost of money to the utility will be closely scrutinized and may result in a disallowance of the interest expense, if it is determined that the cost of money incurred was not prudent. Also, we will require PG&E to provide us with a showing of why it believes that the resulting interest rate and cost of money were advantageous to PG&E and its ratepayers. We will require this showing within a reasonable period of time after the issuance and sale of its Debt Securities.

Reduction of Time in Notification Period

In the event conditions in the financial markets warrant the issuance and sale of the Debt Securities by competitive bidding, PG&E requests that the period of time required by the competitive bidding rule for notification of an invitation for bids be reduced from five days to one day. This reduced time interval is required because decisions relative to the method by which a financing takes place in today's financial markets must be made as close as possible to the date of sale.

Preferred Stock

PG&E also proposes to issue and sell in one or more series its Preferred Stock. The application, as amended, states that in view of the current unsettled market conditions, PG&E believes it would be desirable to have the flexibility to offer up to (a) 750,000 shares of \$100 First Preferred Stock, \$100 par value, or (b) 3,000,000 shares of First Preferred Stock, \$25 par value. In either case, the aggregate par value would not exceed \$75,000,000. In addition, PG&E believes there may be an advantage in having the flexibility to either publicly offer the Preferred Stock or sell it through a private placement.

Also, the application, as amended, states that in D.83-01-011 dated January 12, 1983 in A.82-11-006, PG&E was authorized to issue and sell not exceeding either 1,000,000 shares

of \$100 First Preferred Stock, \$100 par value, or 4,000,000 shares of First Preferred Stock, \$25 par value, for an aggregate par value of up to \$100,000,000. Under this authority, on August 3, 1983 PG&E issued and sold 750,000 shares of 10.17%, Redeemable, \$100 First Preferred Stock, leaving Preferred Stock having an aggregate par value of \$25,000,000 to be issued at a later time. PG&E requests that this application, as amended, supersede the earlier Commission decision insofar as that authorization has not been exercised, and to include the remaining shares of Preferred Stock authorized by the Commission as part of the total authorization requested in this application, as amended.

As discussed in the application, as amended, the terms and conditions of the offering, such as dividend rate and any special features relating to redemption, including sinking fund, if any, and the precise number of shares, will be determined by market conditions at the time of sale of the Preferred Stock, or each series of that offering.

PG&E states that it may be possible to use some of the Preferred Stock requested in the application, as amended, for a "leveraged" preferred stock offering. To issue leveraged preferred stock, a specifically formed trust is used. The trust is capitalized with both an equity investment and funds borrowed from institutions. With the combined funds, the trust buys the

preferred stock from the original issuer. As an inducement to the equity participants to proceed with the financing, the issuer must indemnify them against losses of assumed tax benefits. The after-tax return on investment, which the equity participants anticipate achieving, is based on assumptions that the preferred stock will qualify as "preferred stock" for all federal income tax purposes and that the dividends paid by the issuer would be from current or accumulated earnings and profits, and as such, would be treated as "dividends" and not as a "return of capital" for federal income tax purposes. The "dividends" from the preferred stock are subject to the 85% dividends received deduction. If payments required to be made by PG&E under the indemnification provisions would result in an increase in cost to PG&E (on a pre-tax basis) in excess of one-half of one percent, PG&E would have the option to redeem the entire issue at a price equal to par plus any indemnity amounts required to compensate the equity participants for any losses.

Use of Proceeds

After payment and discharge of obligations incurred for expenses incidental to the issuance of the securities, PG&E proposes to use the proceeds from the sale of the Debt Securities and Preferred Stock (exclusive of accrued interest which would be used for general corporate purposes) as follows:

1. To retire approximately \$185,000,000 of outstanding First and Refunding Mortgage Bonds (Series U, 75A, 7.90% Series C and 9-3/8% Series A); and
2. The balance, if any, to partially reimburse PG&E for moneys previously expended from income or other moneys in its treasury not secured by, or obtained from, the issue of stock, stock certificates, or other evidences of indebtedness for the acquisition of property or for the construction, completion, extension, or improvement of its facilities (exclusive of maintenance of service and replacements). The amounts so reimbursed will become a part of PG&E's general treasury funds. PG&E proposes to use a portion of the general treasury funds to repay a part of its short-term borrowings outstanding at the time of PG&E's receipt of the proceeds.

Clarification of Sierra Pacific Power D.84-03-020

PG&E requests that the Commission clarify D.84-03-020 dated March 7, 1984 in A.83-12-031 in connection with Sierra Pacific Power Company's (Sierra Pacific) application to reorganize its corporate structure, to indicate that the imputation to Sierra Pacific of the activities of the other entities issuing securities

is limited to the factual situation involved in the Sierra Pacific case. In that decision, the Commission held that as part of a plan of reorganization of Sierra Pacific, the issuances of common stock by the new parent corporation, Sierra Pacific Resources, and S. P. Merger Company, Inc., were imputed to be the acts of Sierra Pacific; therefore, these companies were subject to the Commission's jurisdiction under PU Code Section 818. Because the decision could be interpreted to apply to the issuance of shares of the subsidiary to be created by PG&E to make capital contributions to Finance or to the proposed Finance Debt, PG&E seeks certain clarifications of the Sierra Pacific decision. The Commission confirms that the formation by PG&E of such a subsidiary and the issuance of securities thereby are not subject to the jurisdiction of the Commission, inasmuch as that subsidiary will conduct no business subject to regulation under the PU Act.

The California Usury Law

The California Usury Law (Article XV of the California Constitution and the Usury Law Initiative Act) prohibits, with certain exceptions, the charging of interest on any loan or forbearance at an annual rate in excess of the higher of (a) 10% per annum or (b) 5% per annum in excess of the rate prevailing on advances by the Federal Reserve Bank of San Francisco to its member banks. As of May 30, 1984, the maximum interest rate under the

California Usury Law was 14% per annum on transactions not otherwise exempt. Based on current market prices for long-term debt, PG&E states that an A-rated utility like PG&E would have to issue debt at an interest rate greater than 14%. In addition, in the event Finance and PG&E issue convertible debentures, the possibility exists that although the coupon rate could be below the usury limit, the conversion feature would be deemed to be additional interest for usury purposes and could increase the effective interest rate above the maximum permissible limits.

In D.83411 dated September 4, 1974 for Southern California Gas Company in A.55080 and D.90381 dated June 5, 1979 for PG&E in A.58798, among others, the Commission held that in exercising its authority to regulate public utility debt securities, the Commission is not restricted by the California Usury Law and its ramifications. We reaffirm this holding and conclude that even if the limitation of the California Usury Law is exceeded in connection with the proposed issuance of the Debt Securities and/or the guarantee of the Finance Debt, the public interest requires the Commission to authorize the issuance and sale of the Debt Securities and/or the guarantee of Finance Debt.

In view of the California Usury Law considerations, PG&E asserts the utility may find it necessary or advantageous to situate and structure the proposed issuance and sale of the Debt Securities in the State of New York, and to provide that PG&E's obligation to pay principal and interest with respect thereto shall be governed by and construed in accordance with the laws of that state. Inasmuch as PG&E's proposal does not operate to restrict the potential debt market to the detriment of PG&E or its ratepayers, we are not opposed to the situating and structuring of the proposed issuance and sale of the Debt Securities.

Findings of Fact

1. PG&E, a California corporation, operates as a public utility under the jurisdiction of this Commission.
2. PG&E has need for external funds for the purposes set forth in the application, as amended.
3. The proposed Debt Securities, Common Stock and Preferred Stock would be for proper purposes.
4. The money, property, or labor to be procured or paid for by the proposed Debt Securities, Common Stock and Preferred Stock is reasonably required for the purposes specified in the application, as amended.

5. The sale of the proposed Debt Securities should not be required to be through competitive bidding.

6. In the event the Debt Securities are sold under the Commission's competitive bidding rule, PG&E's request that the period of time required by the rule for notification of an invitation for bids be reduced from five days to one day is reasonable and would not be adverse to the public interest.

7. PG&E will form a subsidiary to make capital contributions to Finance. This subsidiary will issue its stock to PG&E. This subsidiary and Finance will issue securities during the course of the proposed debt offerings. As presently contemplated by the application, as amended, neither the new subsidiary nor Finance conduct business subject to regulation under the PU Act.

8. If as a result of prevailing market conditions or the inclusion of conversion rights with respect to the proposed Finance Debt or Debt Securities covered by this application, as amended, these securities are deemed to have an effective interest rate for the purposes of the California Usury Law exceeding the limitations provided in Article XV of the California Constitution and the Usury Law Initiative Act, then the public interest requires that this Commission authorize the issuance and sale of the Finance Debt or Debt Securities, irrespective of limitations contained in the California Usury Law.

9. There is no known opposition to the proceeding and no reason to delay granting the authority requested.

Conclusion of Law

1. A public hearing is not necessary.

2. Pursuant to plenary powers granted to the Legislature by Article XII, Section 5 of the California Constitution, the Legislature is authorized to confer additional consistent powers upon this Commission as it deems necessary and appropriate, unrestricted by any other provisions of the California Constitution.

3. The Legislature has conferred upon this Commission the authority to regulate the issuance and the guarantee of securities of public utilities, including the Debt Securities and/or the guarantee of the Finance Debt covered by this application, as amended, and to prescribe restrictions and conditions as it deems reasonable and necessary (Sections 816, et seq. of the PU Code).

4. Pursuant to the plenary powers granted to the Legislature in Article XII, Section 5 of the California Constitution, it conferred on this Commission the comprehensive and exclusive power over the issuance and the guarantee of securities of public utilities, including the Debt's Securities and/or the guarantee of the Finance Debt, and the California Usury Law cannot be applied as a restriction on this Commission's regulation of the issuance and the guarantee of these public utility securities, including the establishment of a reasonable rate of interest.

5. In addition to the plenary powers granted to the Legislature by the California Constitution pursuant to which the Legislature conferred upon this Commission exclusive authority to regulate the issuance and the guarantee of debt securities by public utilities (Section 816, et seq. of the PU Code), irrespective of the Usury Law, judicial interpretation of the California Usury Law has exempted corporate bonds of public utilities from operation of the California Usury Law.

6. If the usury limitation contained in Article XV of the California Constitution and the Usury Law Initiative Act is exceeded, but the transaction is authorized by this Commission, PG&E, its assignees or successors in interest, will have no occasion to and cannot assert any claim or defense under the California Usury Law. Further, and necessarily, because of lawful issuance by PG&E of the Debt Securities and/or guarantee of the Finance Debt in compliance with authorization by this Commission, persons collecting interest on such authorized securities are not subject to the California Usury Law sanctions.

7. This Commission does not object to PG&E situating and structuring the proposed issuance and sale of the Debt Securities in the State of New York.

8. The application, as amended, should be granted to the extent set forth in the order which follows.

9. The proposed PG&E Debt Securities, Common Stock and Preferred Stock are for lawful purposes and the money, property or labor to be obtained by them is required for these purposes. Proceeds from the Debt Securities, Common Stock, and Preferred Stock may not be charged to operating expenses or income.

10. The issuance of stock upon the formation of the new subsidiary whose primary function is to make capital contributions to Finance and the issuance of debt securities by Finance are not subject to this Commission's jurisdiction under PU Code Section 818. The issuance of securities by an entity which conducts no business subject to regulation under the PU Act will not be imputed to be the act of the related public utility.

The following order shall be effective on the date of signature and payment of the fee set by PU Code Sections 1904(b) and 1904.1, to enable PG&E to issue its securities expeditiously.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E), on or after the effective date of this order, may issue, sell and deliver, in one or more series up to \$500,000,000 aggregate principal amount of its

First and Refunding Mortgage Bonds, debentures, convertible debentures, debentures with warrants, promissory notes, and/or other evidences of indebtedness, or any of them, upon terms and conditions substantially consistent with those set forth in or contemplated by the application, as amended.

2. PG&E may unconditionally guarantee or otherwise secure up to \$200,000,000 aggregate principal amount of Bonds, debentures, convertible debentures, debentures with warrants, promissory notes, and/or other evidences of indebtedness of Pacific Gas and Electric Finance Company, N.V., or one or more corporations organized and existing under the laws of the Netherlands Antilles (collectively referred to as Finance), plus interest, premium, if any, and other charges on Finance's Debt, and/or may secure the payment of Finance's Debt obligations, and/or PG&E's guarantee by an issuance of one or more series of PG&E's Debt Securities, and/or agreement(s) to issue one or more series of Debt Securities, as part of the \$500,000,000 authority granted in the preceding paragraph.

3. PG&E may unconditionally guarantee or otherwise secure up to \$200,000,000 aggregate principal amount of notes or other evidences of indebtedness of subsidiaries or affiliates of PG&E,

plus interest, premium if any, and any other debt service obligations attendant thereto; these notes or other evidences of indebtedness representing borrowings, with the proceeds to be used to effect, to repay or reimburse PG&E or any of its subsidiaries, for borrowings in connection with the making of capital contributions to Finance.

4. PG&E may issue shares of its Common Stock in exchange for and upon retirement of the Finance Debt and related Debt Securities, as may be required from time to time for this purpose.

5. If market conditions so require, an interest rate and other terms, including conversion rights, for the Debt Securities and/or the guarantee of the Finance Debt may collectively exceed the maximum annual interest rate otherwise permitted under the California Usury Law, as contained in Article XV of the California Constitution and the Usury Law Initiative Act.

6. Neither PG&E nor any person purporting to act on its behalf, shall at any time assert in any manner, or attempt to raise as a claim or defense in any proceeding, that the interest on the Debt Securities or the Finance Debt exceeds the maximum permitted to be charged under the California Usury Law or any similar law establishing the maximum rate of interest that can be charged to or received from a borrower.

7. PG&E's proposed Debt Securities are exempted from the Commission's competitive bidding requirements set forth in D.38614 dated January 15, 1946 in Case 4761, as amended, on those security issues sold by means of negotiated public offerings or negotiated private placements.

8. The time period specified in D.38614 in Case 4761, as amended, between the publication of the public invitation for bids and the opening of bids shall be reduced to one day for a sale of Debt Securities through competitive bidding.

9. PG&E may issue and sell in one or more series up to (a) 750,000 shares of \$100 First Preferred Stock, \$100 par value, or (b) 3,000,000 shares of First Preferred Stock, \$25 par value, for an aggregate par value up to \$75,000,000, upon terms and conditions substantially consistent with those set forth in or contemplated by the application, as amended.

10. PG&E shall use the net proceeds from the sale of its Debt Securities, Common Stock or Preferred Stock for the purposes referred to in the application, as amended.

11. PG&E shall notify the Commission in writing promptly after it ascertains (a) the price, interest rate, and other terms pertaining to the Debt Securities, or (b) the amount of its Common Stock that may be issued upon conversion of the proposed Finance Debt and related Debt Securities, and the conversion price and

ratio applicable to the conversion, or (c) the underwriting compensation, the redemption and sinking fund provisions (if any), dividend rate and price to be paid to the Company for the \$100 First Preferred Stock, \$100 par value, or First Preferred Stock, \$25 par value.

12. If the Debt Securities are sold by competitive bidding, PG&E shall file a written report with the Commission showing, for each bid received, the name of the bidder, the price, the interest rate, and the cost of money to the company based on the price and interest rate.

13. If the Debt Securities are sold by competitive bidding or by negotiated public offerings, or if the Preferred Stock is sold in a public offering, as soon as available, PG&E shall file with the Commission three copies of its final prospectus pertaining to the Debt Securities or Preferred Stock.

14. If the Debt Securities are sold by private placements or negotiated public offerings, within 30 days after their issuance and sale, PG&E shall file with the Commission a report setting forth the reason the company believes the resulting interest rate and cost of money were advantageous to PG&E and its ratepayers.

15. PG&E shall file the reports required by General Order Series 24.

16. This order supersedes the ordering paragraphs contained in D.83-01-011 dated January 12, 1983 in A.82-11-006 and D.82-05-079 dated May 18, 1982 in A.82-03-034, insofar as those authorizations have not been exercised by PG&E to the date of this order.

17. The authority granted by this order to issue securities will be effective when PG&E pays \$156,000, the fee set by PU Code Sections 1904(b) and 1904.1, based on the total anticipated consideration expected to be received, after taking credit for the retirement of approximately \$185,000,000 aggregate principal amount of previously issued First and Refunding Mortgage Bonds and less fees already paid by PG&E for the unused \$25,000,000 aggregate par value of Preferred Stock previously authorized in D.83-01-011 and \$65,000,000 aggregate principal amount of PG&E debt securities previously authorized in D.82-05-079.

A. 84-04-116 RR/CFF/AV/WPSC

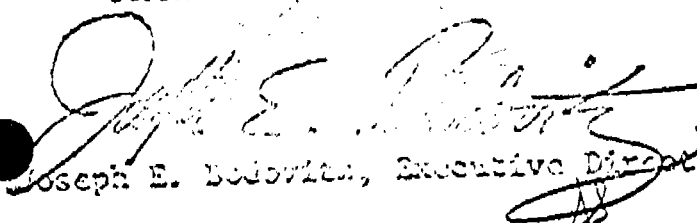
18. This application, as amended, is granted as set forth above.

Dated JUL 18 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA S. CREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TO. VI.


Joseph E. Dolovick, Executive Director

