

ORIGINAL

Decision S3 02 044 FEB 16 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND )  
ELECTRIC COMPANY and the CITY OF )  
REDDING for an order authorizing )  
the former to sell and convey to the )  
latter certain electric distribution )  
facilities, in accordance with the )  
terms of an agreement dated )  
August 16, 1982. )

Application 82-11-27  
(Filed November 15, 1982)

(Electric)

O P I N I O N

Statement of Facts

Pacific Gas and Electric Company (PG&E) since October 10, 1905 has been an operating public utility corporation organized under the laws of the State of California. PG&E is engaged principally in the business of furnishing electric and gas services in California, although it also distributes and sells water in some cities, towns, and rural areas, and produces and sells steam in certain parts of the City of San Francisco.

The City of Redding (the city), located in Shasta County, is a municipal corporation existing under the laws of the State of California. For some time the city has owned and operated an electric distribution system located within its corporate limits. From this system the city furnishes electric service to its residents and inhabitants.

During the 12-month period ending July 31, 1982, in accordance with its obligation as a public utility, PG&E supplied electric services to 83 residential, 14 commercial, 3 agricultural, and 2 streetlighting customers in 14 formerly unincorporated

areas outside the city's boundaries. In recent years the city had exercised its powers of annexation, and these same 14 areas (specifically identified below and shown on the Appendix A map) had been annexed to the city on the dates shown:

<u>Annexation Area</u>	<u>Date of Annexation</u>
1. Quartz Hill Road No. 3	February 6, 1978
2. 77-1	March 31, 1977
3. 77-2	March 31, 1977
4. 77-8	August 23, 1977
5. 78-8	July 11, 1979
6. 79-3	August 6, 1979
7. 79-5	March 12, 1980
8. 79-10	October 25, 1979
9. 79-11	March 12, 1980
10. 79-13	October 19, 1979
11. 79-16	September 22, 1980
12. 80-1	August 13, 1980
13. 80-4	October 17, 1980
14. 80-9	December 18, 1980

Following these annexations the city desired to acquire the PG&E electric distribution facilities which served the areas, to incorporate them into its municipal distribution system. Accordingly, the city and PG&E on August 16, 1982 executed an agreement whereby the city would purchase the poles, conductors, meters, transformers, fixtures, etc., involved within the annexed areas.

By this application PG&E and the city seek an ex parte order of the Commission authorizing the sale and transfer of PG&E's electric facilities, including any additions and betterments, within the annexed areas to the city. Upon acquiring these

properties, the city intends to continue to furnish the electric service presently supplied by means of these facilities, charging and collecting rates and charges not in excess of those presently paid to PG&E by the customers involved. Concurrent with the connection of the customers in the annexed areas to the city's facilities, PG&E also seeks to be relieved of its public utility obligations within the annexed areas.

The purchase for the facilities reflects replacement cost less depreciation, and is in the amount of \$191,245, plus severance costs of \$31,802, adjusted to reflect:

- a. the net value of the facilities (as determined under the practice set forth in the Uniform System of Accounts) together with the net value of the additions to and retirements from the facilities by PG&E subsequent to April 16, 1981, and prior to conveyance,
- b. 15% of such net value, and
- c. any additional applicable severance costs.

The current ad valorem taxes for the tax year in which the facilities and any additions are conveyed will be prorated as of the conveyance date.

The city has been advised that certain of the facilities involved contain polychlorinated biphenyls (PCBs), and the city has agreed to hold PG&E harmless for any and all liability arising from such substances or from any failure of the city to perform its utility obligations to customers in the areas.

For the 12-month period ending July 31, 1982 PG&E derived a gross annual revenue from these 102 customers of approximately \$542,000. PG&E holds no credit or line extension deposits for customers involved in this application. Notice of the application appeared in the Commission's Daily Calendar of November 18, 1982. No protest has been received. There have been several telephone calls from owners of annexed property urging approval of the application.

Discussion

While most communities in California obtain their electric services from privately owned public utility corporations such as PG&E, some cities prefer and are able to invest in the acquisition of their own electric distribution facilities to take advantage of the low wholesale power rates available under preferential allocations from federally owned hydroelectric projects. Having lower financing costs than do the privately owned public utility corporations, and not having to pay income taxes, cities are sometimes able to deliver electricity to the residents and businesses within their boundaries at rates lower than those that the public utility must charge. But to become entitled to a preferential allocation from federal power projects a municipality must own its own distribution facilities, and must accept utility responsibility for present and future customers in the area it will serve. Lacking its own transmission lines, a city usually pays the area public utility to wheel the federal power from the federal project source to the city's distribution lines. Then, to meet its utility responsibility fully, the city contracts with the area public utility for a wholesale purchase to make up any supplemental power supply it requires over and above its federal allocation.

In California a municipal corporation is empowered to acquire, construct, own, operate, or lease any public utility (California Constitution, Article II, Section 19; West's Ann. Pub. Util. Code Section 10002). Thus, Redding has the power of eminent domain to acquire, by court action, the electric distribution and streetlighting facilities within any area annexed to the city; and each annexation and acquisition of electrical facilities entitles the city to a larger share or allocation of any federal power becoming available the next contract period. Under such

circumstances, in order to avoid a condemnation suit and to compromise possible litigation, the public utility corporation involved in an annexation area similar to the present situation, is often willing to sell its facilities to the city by direct negotiation and contract.

While Public Utilities Code Section 851 provides that no public utility other than a common carrier by railroad may sell the whole or any part of its system or property useful in the performance of its public duty without first obtaining authorization to do so from this Commission, under present operation of law, where a municipal corporation is involved, the approval of this Commission is substantially a ministerial act so long as there is fair and just compensation to the public utility for the voluntary sale. In this instance, reflecting as it does the replacement cost of the facilities less depreciation, the purchase price meets the test of fair and just compensation for the facilities to be sold. The city has also agreed to assume the utility obligation to provide electric service in the annexed areas, and the city will hold PG&E harmless from any and all liability arising from any failure of the city to perform its utility obligations to customers in the areas. The city also accepts responsibility for any liability arising out of the latent PCB potential. The parties to the agreement assert that their agreement is fair, just, and reasonable both as to the parties and to the customers directly affected. There is no opposition to the application, and in that the segment of the public in the annexed areas appears to support the application, there is no need to set the matter for public hearing. The application will be approved.

However, while we approve this application we believe that the Commission would be remiss were it not to comment briefly upon the broader perspective it opens. How many such annexations

and facilities transfers would it take before serious detriment were done to the ability of the area public utility, in this case PG&E, to serve its remaining customers? Inevitably, higher costs must result to PG&E in serving its remaining territory, and these higher costs must finally be spread over ever fewer public utility customers. PG&E must still continue to provide and maintain the transmission lines, the power plants, and the long distribution lines required to serve the other municipalities, those unable to afford their own distribution system, as well as the more sparsely settled and rural areas in its service territory. As present power supply allocations contracts to PG&E from federal hydroelectric projects run their term, PG&E will be faced with having to replace the cheaper federal power lost to the municipalities under preferential bidding where the cities have the priority. And these replacement facilities must be replaced at today's higher costs and are fully taxed.

Certainly the customers in the annexed areas will today benefit by lower electricity costs. But the remaining customers in the public utility's service area, including those in the nearby cities which cannot afford or for other reasons do not own the distribution systems required in order to qualify for federal allocations, receive no benefit, and they will ultimately have to pay more for their electricity. We doubt that if they were able to vote on the higher costs that many of them would approve, but they are still a part of the public affected by the sale.

At present there is no provision at law similar to that contained in Government Code Section 56019 which, as relevant here, requires that when a Local Agency Formation Commission (LAFCo) is approached by a public utility district or any other public entity other than a city to annex an area presently served by a public

utility, before proceeding to further consideration of the annexation that LAFCo must seek from this Commission a report stating whether such annexation will:

"... substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of such public utility."

With this Commission's impact report before them, all the participating political entities in that LAFCo area have an opportunity to consider the potential impact upon each's constituency before voting on the annexation.

Findings of Fact

1. PG&E provides public utility electric service in many areas of California, including areas in and about the city.

2. The city, a California municipal corporation, for some time has owned and operated an electric distribution system in areas within the municipal limits.

3. At different times within the past six years the city has annexed unincorporated areas, including the specific 14 areas which are the subject of this application, wherein the electric service was provided by PG&E.

4. In the interim since annexation, PG&E has continued to provide these areas with electric service.

5. The city itself now plans to provide the electric service in these 14 areas, and has contracted with PG&E to purchase the existing distribution and streetlighting facilities from PG&E and will incorporate these facilities into the city's electric distribution system.

6. The purchase price negotiated between the city and PG&E for the facilities, the proposed payment of net value plus 15% for additions, the proposed payment of applicable severance costs, and the proposed proration of current ad valorem taxes constitute a just and reasonable compensation for the transfer.

7. The furnishing of electric service in the 14 annexed areas by the city will not result in rates and charges to the customers of these areas in excess of those paid to PG&E.

8. There is no known opposition to the proposed sale and transfer.

9. It can be seen with reasonable certainty that there is no possibility that the sale and transfer of these particular facilities alone may have a significant effect on the environment.

10. The proposed sale and transfer of these particular facilities, under all the conditions applicable, would not be adverse to the public interest.

11. The sooner the sale and transfer can be consummated, the sooner the customers in the 14 areas may be able to obtain the lesser rates and charges the city plans to offer them.

12. PG&E has no credit or line extension deposits for customers involved in this sale and transfer.

13. Upon completion of the sale and transfer PG&E should be relieved of its electric public utility obligations in the 14 annexed areas.

Conclusions of Law

1. A public hearing is not necessary.
2. The application should be granted.

O R D E R

IT IS ORDERED that:

1. Within six months after the effective date of this order PG&E may sell and transfer to the city the electrical distribution



facilities set forth in their August 16, 1982 agreement annexed to and made a part of their application as Exhibit B.

2. Within 10 days of the actual transfer PG&E shall notify the Commission in writing of the date on which the transfer was consummated. A true copy of the instrument of transfer shall be attached to the written notification.

3. Within 90 days after the date of actual transfer, PG&E shall advise the Commission's Revenue Requirements Division, in writing, of the adjustments for additions and betterments made in accordance with Exhibits B and D annexed to and made part of the application.

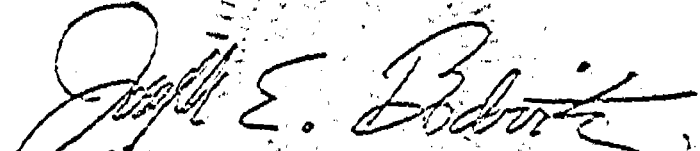
4. Upon compliance with this order, PG&E shall stand relieved of its public utility obligations in connection with electric service in the areas served by the transferred facilities.

This order is effective today.

Dated FEB 16 1983, at San Francisco, California.

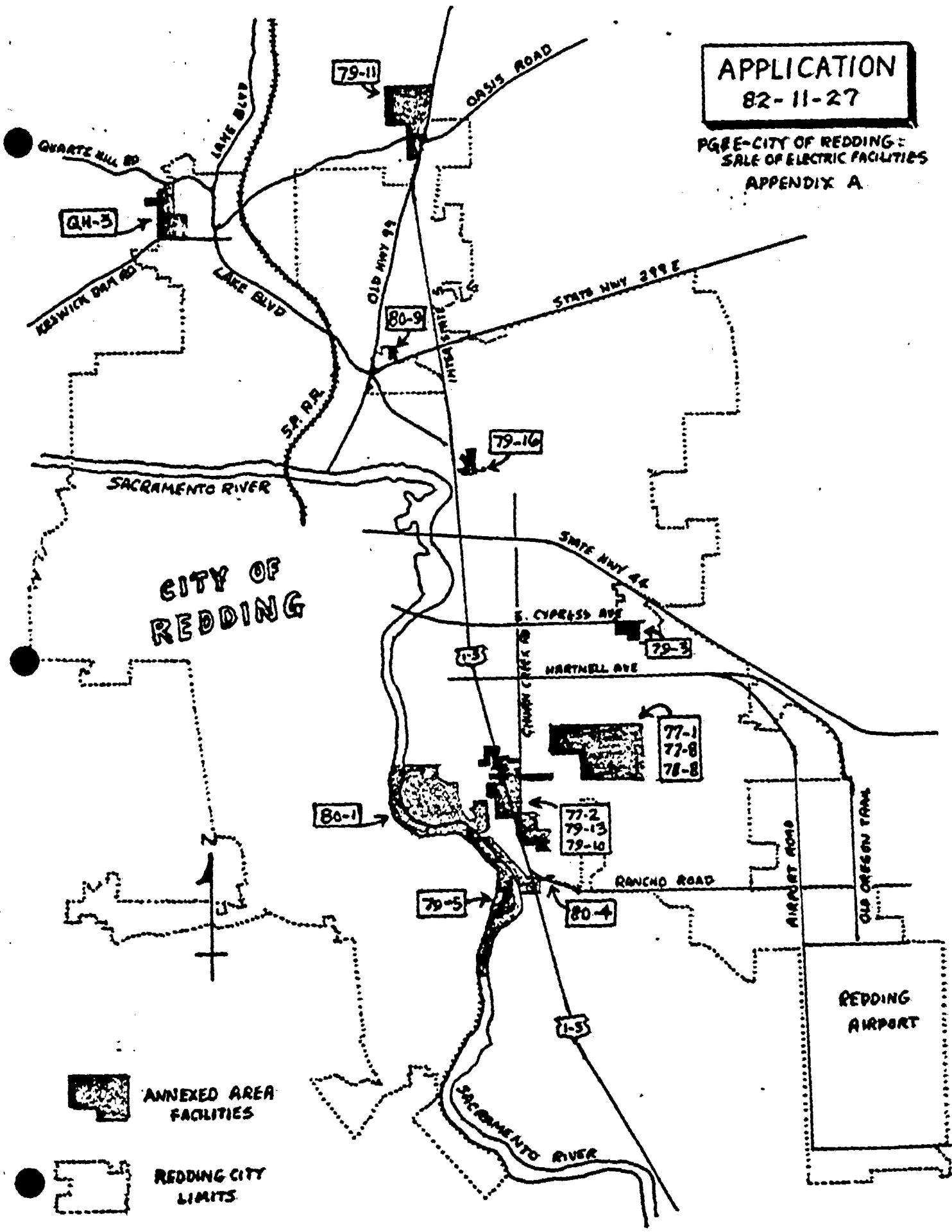
LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
FRISCILLA C. GREN  
DONALD VIAL  
Commissioners.

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

  
Joseph E. Bodovitz, Executive Director

**APPLICATION**  
82-11-27

PG&E-CITY OF REDDING:  
SALE OF ELECTRIC FACILITIES  
APPENDIX A



**ANNEXED AREA FACILITIES**

**REDDING CITY LIMITS**

**CITY OF REDDING**

**REDDING AIRPORT**

SACRAMENTO RIVER

1-5

1-5

80-1

79-5

80-4

77-2  
79-13  
79-10

77-1  
77-8  
78-8

79-3

79-16

80-9

79-11

80-3

LAKE BLVD

LAKE BLVD

ORASIS ROAD

Old Hwy 99

STATE HWY 299E

STATE HWY 44

S. CYPRESS AVE

MARTNELL AVE

RANCHO ROAD

AIRPORT ROAD

OLD OREGON TRAIL

S.P. R.R.

INTERSTATE 5

STANLEY CREEK RD

QUARTZ HILL RD

KESWICK DRAFT RD

N