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ORIGINAL

Decision No. 87512 June 28, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC GAS AND ELECTRIC COMPANY for a certificate of public convenience and necessity to construct, install, operate, maintain and use three gas turbine units, together with related facilities in Oakland, California. (Electric)	Application No. 55225 (Filed October 1, 1974)

Kathy Graham, Attorney at Law, for Pacific Gas and Electric Company, applicant.
Lionel B. Wilson, Attorney at Law, and John L. Dutcher, Professional Engineer, for the Commission staff.

O P I N I O N

Applicant's Request

In this proceeding, Pacific Gas and Electric Company (PG&E) seeks an order of the Commission issuing a certificate under Section 1001 of the Public Utilities Code of the State of California declaring that the safety, health, comfort, and convenience of the public and the present and future public convenience and necessity require or will require the construction, operation, maintenance, and use of three gas turbine units together with related facilities in Oakland, California.

Hearings were held on April 4, 1977 and April 29, 1977 in Oakland and San Francisco, respectively, before C. T. Coffey. The Final Environmental Impact Report (Final EIR) was issued on May 13, 1977. Since no exceptions were filed by parties to the proceeding, the matter was submitted for decision on June 2, 1977. One letter has been received suggesting that the Final EIR is defective in that it does not discuss peak-load pricing as an alternative to peaking generation. Such conservation considerations are appropriate for future programs but here the project need is immediate.

PG&E's Proposal

In this proceeding, PG&E seeks a certificate to construct a gas turbine project consisting of three oil burning combustion turbine generator units (usually called "gas turbines") at PG&E's property in the vicinity of Grove and First Streets in Oakland, California. (This site is commonly known as "Station C", but is henceforth called the Oakland Power Plant.) The units have an average net capacity of 57 megawatts each. Two units are proposed to be installed inside the existing, but presently vacant, Oakland Power Plant building, and one will be installed outside the building. Existing switchyard equipment adjacent to the Oakland Power Plant will receive and distribute the electricity generated. Storage facilities will include a 50,000-barrel fuel storage tank adjacent to the plant and valving and metering devices for receiving fuel oil from an existing nearby pipeline owned by Southern Pacific Pipeline Company.

The need for the gas turbine project has been demonstrated by the staff and PG&E. The need for bringing the gas turbine project on-line as soon as possible has also been demonstrated. The project will fulfill two objectives. It will provide additional peaking and reserve capacity for the entire PG&E area system and, in addition, will improve the reliability of the power supply in the downtown Oakland area.

The financial ability of PG&E to construct and operate the proposed units is shown in PG&E's annual report to the Commission for the year ended December 31, 1976 filed with the Commission and incorporated herein by reference.

Governmental Agencies

The governmental agencies from which approvals are required for construction of the gas turbine project, or portions thereof, other than this Commission, include: Port of Oakland, City of Oakland, Bay Area Air Pollution Control District (BAAPCD), and the Bay Area Regional Water Quality Control Board.

Environmental Matters

A comprehensive record on environmental matters was developed in this proceeding in consultation with public agencies, all of which are elements in the EIR process culminating in the issuance of the Final EIR.

This decision-making process includes, pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure, a series of findings based on the Final EIR's coverage of:

"(a) The environmental impact of the proposed action;

"(b) Any adverse environmental effects which cannot be avoided if the proposal is implemented;

"(c) Mitigation measures proposed to minimize the impact;

"(d) Alternatives to the proposed actions;

"(e) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

"(f) Any irreversible environmental change which would be involved in the proposed action should be implemented;

"(g) Growth-inducing impact of the action; and

"(h) Plans for future development."

Findings of Fact

1. The evidence demonstrates the need for the proposed Oakland gas turbine project.

2. PG&E is a publicly regulated utility engaged in the transmission and distribution of electricity in northern and central California.

3. Construction of the gas turbine project is in the best interests of the State.

4. Construction of the gas turbine project has some advantages over other forms of providing electricity:

a. Construction of the gas turbine project will have a minimal adverse effect on the environment, as the present land use in the area where the project is to be located is compatible with the proposed project, and there will be little other adverse impact produced by the project.

b. Gas turbines are an effective resource for meeting both peaking and reserve needs of PG&E.

c. Locating the gas turbines in Oakland will also provide a needed resource in the downtown Oakland area so that reliance on the existing 38-year old CX-1 cable may be discontinued.

5. The gas turbine project has some disadvantages in comparison with other forms of production of electricity:

a. The gas turbines will use a distillate fuel oil.

b. Gas turbine units produce waste heat; each TP-4 gas turbine unit will release approximately 0.4 billion BTU to the atmosphere each hour.

6. Although the present need for peaking capacity is generally met by a large amount of hydroelectric generation installed in PG&E's system, nearly all of the economical hydroelectric sites have already been developed, and now other types of peaking resources such as gas turbine generators are needed to meet future peaking requirements.

7. There are no alternative types of peaking resources that could be obtained to replace the capacity that the Oakland gas turbine units will provide for the system.

8. In view of the present shortage of electric capacity in PG&E's system due to the severe drought and delay in operation of Diablo Canyon Units 1 and 2, the gas turbine units should be constructed as soon as possible to provide a new resource for northern and central California electric customers.

9. The project will be located on an existing power plant site owned by PG&E; therefore, it will not be necessary that any new property be acquired for construction of this project.

10. PG&E will take adequate precautions to insure the safety of the general public. All construction will be in compliance with provisions of the Federal Occupational Health and Safety Act and applicable California State codes and regulations.

11. Substantial evidence indicates that the gas turbine units, as well as the fuel oil storage tank, will withstand an earthquake on the Hayward Fault which could be expected to have a magnitude of approximately 7 on the Richter scale.

12. Considering the evidence introduced by all parties to the proceedings, it is clear that approval of the gas turbine project is consistent with the public convenience and necessity.

Environmental Considerations

The Commission has carefully considered the evidence on environmental matters contained in the Final EIR and makes the following findings pursuant to Rule 17.1(j)(3) of its Rules of Practice and Procedure.

Environmental Impact of the Proposed Action

The potential environmental impacts of this proposed project were discussed in the PG&E's Environmental Data Statement (EDS) and the staff's Draft Environmental Impact Report (Draft EIR). Several potentially significant environmental issues were resolved during the consultation period when the EDS was circulated for review and later when the Draft EIR was circulated for comment.

13. The originally proposed fuel receiving facility at the Grove Street Pier and its associated pipeline have been eliminated. Instead, fuel oil will be purchased from an existing pipeline owned by Southern Pacific Pipeline Company. This avoids the problems of possible fire hazards and oil spill during fuel transfer operations.

14. Existing land uses will be relatively undisturbed since the gas turbine units will be located at an existing power plant with two of the units housed inside the existing power plant building. The area in which the gas turbines will be located is zoned industrial and commercial.

15. The noise from construction and operation of the gas turbine facility will not significantly affect the environment. The manufacturer of the gas turbines has guaranteed the installation of certain noise abatement equipment on the turbines which should prevent the noise from exceeding 59 dBa along Jefferson, Embarcadero, and Grove Streets and 65 dBa along the Grove Street Pier.

16. The facility is not anticipated to have an impact on water quality. Cooling water is not required for the operation of the gas turbine units.

17. The gas turbines will emit certain quantities of air pollutants. The BAAPCD has reviewed the EDS and also the Draft EIR and, based on experience with similar gas turbine units installed in San Francisco, approved the methodology used in air quality impact analysis and found the analysis results to be reasonable. PG&E has applied to the BAAPCD for a permit to construct and must present necessary data indicating that the installations will meet air quality requirements and regulations.

The State Air Resources Board (ARB) has commented on the proposed facility and concluded that: "The proposed site is located in an area where the ambient air quality standards for NO_2 (nitrogen oxide), oxidants, CO (carbon monoxide), and particulate matter have been exceeded. Pollutants that would be emitted by the proposed facility would have an adverse impact on air quality and would interfere with the attainment of air quality goals. The applicant has not demonstrated either mitigating factors or air quality tradeoff. We feel that the proposed site is not suitable for this facility without acceptable tradeoffs." In response to the ARB's conclusions, a PG&E witness discussed the BAAPCD's standardized analysis procedure for determining whether an emission is significant in the air quality evaluation criteria permit. The witness testified that predicted emissions for all pollutants were not significant using the standardized procedure. Thus while there will be emissions, PG&E calculates that they will not be significant. The BAAPCD will not grant a permit until it concurs with the calculations.

18. We have reviewed the record and the Final EIR and find that granting the application will have no significant impact on land use, water, air, or noise quality providing that the plant is designed and constructed as presented in the Draft and Final EIRs.

Any Adverse Environmental Effects Which Cannot be Avoided if the Proposal is Implemented

19. Construction of this project will result in certain air emissions and increased noise levels in the project area; however, these impacts should be small and will occur in a highly industrial area.

Mitigation Measures Proposed to Minimize the Impact

It is PG&E's position that the project is being designed in such a manner that the required facilities will not have a significant adverse impact upon the environment.

20. The proposed fuel storage tank and gas turbines are designed to withstand an earthquake of magnitude 7 on the Richter scale. This is the maximum earthquake which would be expected to occur along the Hayward Fault in a 100-year period. Thus, no significant oil spills nor other damage is expected to occur at the site during such an earthquake.

21. Special care has been taken in designing the gas turbines so that they will not produce an adverse noise impact on the surrounding area. It is anticipated that the gas turbine noise will not exceed 59 dBa along Jefferson, Embarcadero, and Grove Streets, and 65 dBa along the Grove Street Pier.

22. Nitrogen oxide (NO_x) emissions from the gas turbines will be abated by an NO_x control system which is dry in nature; however, if there is a slippage in delivery of that system, the use of a temporary water injection system will be required. The water injection system will consume approximately 180 gallons per minute while the plant is in operation. PG&E plans to use water

from the East Bay Municipal Utility District. Other air emissions will not require mitigation.

Alternatives to the Proposed Action

23. There are no alternative types of resources that could be obtained prior to 1980 to replace the capacity that the Oakland power plant gas turbine generator units would provide for the system. PG&E is already developing geothermal power as rapidly as steam supplies can be proved. Nuclear additions after Diablo Canyon Units 1 and 2 are not planned to become commercial before the mid to late 1980's, and it is unclear at this time when Diablo Canyon Units 1 and 2 will become operative. The 1,125 MW Helms Pumped Storage Project is not scheduled for service until May 1981. PG&E has already made arrangements to purchase all capacity that is available over its interconnections with neighboring utilities.

Relationship between Local Short-Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity

24. There are no irreversible and long-term impacts of the proposed gas turbine project. Short-term impacts would be on air quality and noise and the temporary effects resulting from plant construction. Balanced against these environmental effects are PG&E's obligations to provide reliable electric service in its service territory and the adverse impacts, both social and environmental, of any failure to do so.

Irreversible Environmental Changes Which Would be Involved If the Proposed Action Should be Implemented

25. There are no irreversible environmental effects of the proposed construction and operation of the gas turbine project, except for the utilization of natural resources and labor associated with construction and operation of the project.

Growth Inducing Impact of the Proposed Action

26. Construction and operation of the gas turbine project will have some minimal growth inducing impacts resulting from the addition of construction employees during construction of the unit. In addition, there will be some secondary effects resulting from the impact of the additional property taxes for the local taxing jurisdictions.

27. The gas turbine project will facilitate expected growth in the area.

a. The need to build the project in order to provide reliable electric service is a response to anticipated need in PG&E's area system.

b. Without this electric facility, reliable electric service during PG&E's peak-electric periods to PG&E's firm-electric customers could not be maintained even for present customers. If this facility were not constructed, PG&E would not meet one of its fundamental public utility obligations.

Plans for Future Development

28. PG&E has no plans for future development at the proposed site.

Environmental Assessment in the Aggregate

29. The project should not, on balance, have a significant detrimental effect on the environment.

30. The public safety, health, comfort, convenience, and necessity require the installation, maintenance, operation, and use of the gas turbine project together with related facilities.

31. The proposed new project does not compete with any person, firm, or public or private corporation in the public utility business for furnishing or supplying electric service to the public in or adjacent to the territory in which the gas turbine project shall be located.

32. The construction of the proposed facility will not produce an unreasonable burden on natural resources, aesthetics of the area in which the proposed facilities are to be located, public health and safety, air and water quality in the vicinity, or parks, residential and scenic areas, or historic sites and buildings, or archaeological sites.

The action taken herein is not to be considered as indicative of amounts to be included in future proceedings for the purpose of determining just and reasonable rates.

A notice of determination for the project is attached as Appendix A to this decision, and the Commission certifies that the Final EIR has been completed in compliance with CEQA and the guidelines and that it has reviewed and considered the information contained in the EIR.

Based on the foregoing findings, the Commission concludes that the gas turbine project should be authorized in the manner and to the extent set forth in the following order.

Regulatory Lag

Noting that this proceeding was filed on October 1, 1974, that the first day of hearing on the EIR was April 4, 1977, that an editorial complaining of regulatory lag in rate cases and EIRs had recently appeared in the San Francisco Chronicle, and because of PG&E's request that the hearing and decision process be expedited after over two years has been consumed in drafting the EIR, the presiding officer directed a complete showing of what has caused the delay in this proceeding. Exhibit 9, prepared jointly by PG&E and the staff's engineers, sets forth a detailed chronology of the major events during the processing of this matter. Exhibit 9 contains the following PG&E-staff joint statement:

"The environmental review processing time required for the proposed Oakland Power Plant involved three major elements. The work of the Staff and of Pacific Gas and Electric Company extended over a period of approximately 28 months, from the initial filing on October 1, 1974 through the issuance of the Draft Environmental Impact Report (EIR) on February 3, 1977. The three major time elements were as follows:

"1. Normal review and comment procedures (usually assumed to require not less than 12 months).

"2. Unilateral cancellation by manufacturer of the contract to supply the FT-50 gas turbine and subsequent substitution of a smaller unit (approximately 9 - 12 months).

"3. Misunderstanding between Staff and PG&E concerning data and information required with respect to project need and alternative sites (approximately 4 - 6 months)."

This record demonstrates that PG&E is solely responsible for a delay of not less than 13 to 18 months of the 28 months required to process the Draft EIR. Without this delay, the normal review and comment procedures would have been completed within one year.

When the supplier of the FT-50 gas turbine advised PG&E on July 28, 1975 that its new model gas turbine was being reevaluated, it was not until December 24, 1975, essentially six months later, that PG&E resolved the turbine problem so that the staff could complete its evaluation.

Exhibit 9 indicates that a "misunderstanding" between the staff and PG&E concerning required data and information caused a delay of from four to six months. Actually what happened was that PG&E's personnel refused to supply data and information

in the form required by the staff to develop its EIR, and that PG&E's personnel refused to supply data on alternative sites other than of their choosing. Rule 17.1(f)(4) of the Commission's Rules of Practice and Procedure provides:

> "(4) If it is determined either after review of the Initial Study or upon submission of an EDS by the applicant with its application, that the project may have a significant effect on the environment, the staff shall review the proponent's EDS for form, adequacy, and objectivity and, if necessary, request proponent to correct any deficiencies. . . ."
> (Emphasis added.)

PG&E and other California utilities must realize that it is not sufficient to plead for expeditious hearings and prompt decisions to minimize regulatory lag. Basic to the public interest in the regulatory process is the production by the utility of data and information in a readily comprehendible form conducive to staff review and expeditious proceedings. While delay in a regulatory proceeding is measured from the day of filing to the decision date and thus all delay is ascribed to the regulatory process, utilities themselves can be responsible for a large portion of the delay as this instance illustrates. If utilities wish to minimize regulatory lag, they have the responsibility to make complete and lucid showings in support of their requests.

It is the duty of the staff to insure that the record in a regulatory proceeding is complete. It is the responsibility of the utilities to make full disclosure. The withholding of data on alternate sites as was done in this case precludes the Commission from exercising its assigned functions and unduly limits the choice of the Commission to those alternatives selected by the utility.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity be granted to Pacific Gas and Electric Company (PG&E) tc construct and operate its gas turbine project, together with related facilities as finally proposed by PG&E in this proceeding and as conditioned by the following:

   a. The facility shall be constructed as described in PG&E's final testimony, except where changes are required by competent authority; and

   b. PG&E shall construct the facility in a manner which will protect the environment as provided in the Commission's Draft Environmental Impact Report.

2. PG&E shall monitor the noise emissions from the gas turbines at various locations along the property lines at Station "C" following completion and commencement of operation of the gas turbine project and submit the noise data to this Commission and to the Port of Oakland within one year following the date it is placed in commercial operation.

3. PG&E shall file with this Commission a detailed statement of the capital costs of the gas turbine project, together with related facilities, within one year following the date it is placed in commercial operation.

The Executive Director of the Commission is directed to file a Notice of Determination for the project, with contents as set forth in Appendix A to this decision, with the Secretary for Resources.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28th day of JUNE, 1977.

Robert Batinovich
President
William Symons, Jr.
Vernon L. Sturgeon
Richard D. Grunsky
Commissioners

A.55225

APPENDIX A

NOTICE OF DETERMINATION

TO: [X] Secretary for Resources
1416 Ninth Street, Room 1311
Sacramento, CA 95814

FROM: (Lead Agency)
California Public Utilities Commission
350 McAllister Street
San Francisco, CA 94102

[ ] County Clerk
County of _____

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code

Project Title Oakland Power Plant
State Clearinghouse Number (If submitted to State Clearinghouse) 77021630
Contact Person: John L. Dutcher, Sr. Utilities Engr. | Telephone Number: 415-557-3938
Project Location City of Oakland
Project Description Application by Pacific Gas and Electric Company (PG&E) to California Public Utilities Commission to construct, install, operate, maintain, and use three gas turbine units, together with related facilities in Oakland, California.

This is to advise that the California Public Utilities Commission (Lead Agency) has made the following determinations regarding the above-described project:

1. The project has been [X] approved [ ] disapproved by the Lead Agency.

2. The project [ ] will [X] will not have a significant effect on the environment. (See Decision No. 87512 attached.)

3. [X] An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.

   [ ] A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. A copy of the Negative Declaration is attached.

Date Received for Filing

Signature Phillip E. Blecher
Executive Director
Title

Date