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Decision No. 92118 AUG 19 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND
ELECTRIC COMPANY to issue and sell
privately an amount not to exceed
\$60,000,000 aggregate principal
amount of its First and Refunding
Mortgage Bonds, Pollution Control
Series B; execute and deliver an
Installment Sales Agreement; and
sell utility plant.

ORIGINAL

Application No. 59803
(Filed July 10, 1980)

O P I N I O N

Pacific Gas and Electric Company (PGandE) requests authority (a) to execute and deliver an Installment Sales Agreement with the California Pollution Control Financing Authority, and (b) to issue, sell and deliver not exceeding \$60,000,000 aggregate principal amount of its First and Refunding Mortgage Bonds, Pollution Control Series B, and (c) to exempt the proposed sale of the bonds from the requirements of the Commission's competitive bidding rule.

PGandE requests this authority pursuant to Sections 816, 817, 818 and 851 of the Public Utilities Code. Notice of filing of the application was published on the Commission's Daily Calendar of July 15, 1980.

PGandE is a California corporation and a public utility 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 company also provides a small amount of incidental water and steam services. For the twelve months ended March 31, 1980, the utility reported total operating revenues of \$4,467,292,000 and net income of \$474,131,000. Exhibit A, attached to the application, indicates for the three months ended March 31, 1980, operating revenues of \$1,269,270,000 and net income of \$131,555,000.

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PGandE proposes to engage in a California pollution control financing by executing an Installment Sale Agreement with the California Pollution Control Financing Authority (Authority) pursuant to which the Authority would sell not exceeding \$60,000,000 aggregate principal amount of its Pollution Control Revenue Bonds (Pacific Gas and Electric Company) 1980 Series A (Authority Bonds), plus accrued interest, if any, to a group of underwriters managed by Goldman, Sachs & Co. and Dean Witter Reynolds Inc., who will ultimately market the bonds to the general public. Concurrently with the sale and delivery of the Authority Bonds, PGandE will sell to the Authority pollution control facilities previously acquired or constructed by PGandE and the Authority shall purchase the same free and clear of all liens, charges and encumbrances, except the lien of PGandE's Mortgage, at a price equal to the utility's cost of construction for the facilities. In addition, the Authority would cause certain pollution control facilities to be constructed and installed according to plans and specifications provided by PGandE. Upon completion of construction of a pollution control facility, the Authority would convey title to the facility to PGandE. ✓

The pollution control projects consist of (a) air pollution control facilities to be acquired and constructed at four of PGandE's geothermal electric generating units located at the Geysers in Sonoma County, California; (b) water pollution control facilities to be acquired and constructed at the combined cycle Potrero Power Plant located in San Francisco, together with air pollution facilities at various third party locations required to offset the increased emissions at the Potrero Power Plant; and (c) water pollution control facilities to be acquired and constructed at PGandE's marine terminal facilities adjacent to the Moss Landing Power Plant. A description of the facilities to be constructed by PGandE is attached to the application as Exhibit B.

In consideration of the conveyance back to PGandE of title to the constructed facilities, and the agreement of the Authority to construct additional facilities, PGandE would issue, sell and deliver to the Authority not exceeding \$60,000,000 aggregate principal amount of its First and Refunding Mortgage Bonds, Pollution Control Series B (Series B Bonds). The terms and conditions of the Series B Bonds, including aggregate principal amount, interest rate, sinking fund provisions, maturity date, redemption provisions, if any, and prepayment provisions would be consistent with the terms and conditions of the Authority Bonds. The Series B Bonds will be issued in conformity with the provisions of, and secured by, PGandE's existing First and Refunding Mortgage, as amended by supplemental indentures.

PGandE's reasons for requesting exemption from competitive bidding requirements as set forth in the application are as follows:

" It is expected that the interest payable on the Authority Bonds will be exempt from all present federal income taxes and California taxes under existing statutes, regulations court decisions and rulings. As a result, the Authority Bonds will be sold at an annual interest rate approximately three percentage points lower than that which would be realized if long-term debt obligations were issued and sold by PGandE. The full amount of this cost savings will be passed on to PGandE.

" The principal and interest payments on the Authority Bonds will be secured by the pledge of the revenues derived by the sale of the pollution control facilities. In order for PGandE to take advantage of the favorable interest rates applicable to the Authority Bonds it must purchase the pollution control facilities from the Authority for an amount equal to the principal and interest payments evidenced by the Authority Bonds. The Authority Bonds are payable solely from said payments to be received from PGandE and their interest rate will reflect the credit rating of PGandE. In order to insure the most favorable interest rate for the Authority Bonds, PGandE wishes to have its obligations to the Authority secured on a parity with PGandE's obligations to its first mortgage bond holders, its most senior class of creditor. It proposes to accomplish this by issuing, selling and delivering the New Bonds to the Authority to secure and evidence its payment obligation under the Agreement."

In Decision No. 91984, dated July 2, 1980 for the San Diego Gas & Electric Company, Application No. 59633, we discussed the granting of exemptions from the competitive bidding rule, and we clarified the nature of the compelling showing that must be made to warrant an exemption from the rule. We served notice that assertions regarding the volatility of the market, the flexibility provided by a negotiated sale, and the importance of maximizing the effectiveness of the underwriting group will not serve as compelling reasons, individually or collectively, for granting an exemption from the competitive bidding rule.

Given the nature and structure of the California statutory pollution control financing mechanism, we are of the opinion that PGandE must issue and sell the Series B Bonds to the Authority. Therefore, the application of the Commission's competitive bidding requirements and conditions promulgated by Decision No. 91984, would not, in this proceeding, be in the best interests of PGandE or its ratepayers as it would not operate in a manner so as to allow PGandE's sale of the Series B Bonds at the most favorable available cost of money.

PGandE's capital ratios as of March 31, 1980, and as adjusted to give effect to the proposed issuance of the Series B Bonds herein requested and as further adjusted to give effect to Decisions Nos. 91982 and 92023 for authority to issue not exceeding 5,000,000 shares of First Preferred Stock (assuming a price of \$25.00 per share) and not exceeding \$250,000,000 aggregate principal amount of First and Refunding Mortgage Bonds are as follows:

	<u>March 31, 1980</u>	<u>Pro Forma</u>
Mortgage Bonds	45.1%	46.4%
Preferred Stock	14.7	15.4
Common Stock Equity	<u>40.2</u>	<u>38.2</u>
Total Capitalization	<u>100.0%</u>	<u>100.0%</u>

The Revenue Requirements Division has reviewed the application and concludes that the proposed pollution control financing is reasonable.

Findings of Fact

1. PGandE is a California corporation operating under the jurisdiction of this Commission.

2. The proposed Installment Sale Agreement would not be adverse to the public interest.

3. The proposed bonds would be for a proper purpose.

4. The proposed sale and delivery of constructed facilities would not be adverse to the public interest.

5. The money, property or labor to be procured or paid for by the bonds herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

6. The sale of the proposed bonds should not be required to be through competitive bidding.

7. There is no known opposition and there is no reason to delay granting the relief requested.

Conclusions of Law

1. A public hearing is not necessary.

2. The application should be granted to the extent set forth in the order which follows.

The authorization herein granted is for the purpose of this proceeding only, and is not to be construed as indicative of the amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company may execute and deliver an Installment Sale Agreement in substantially the form attached to the application as Exhibit C.

2. Pacific Gas and Electric Company may issue, sell and deliver not exceeding \$60,000,000 aggregate principal amount of its First and Refunding Mortgage Bonds, Pollution Control Series B, at the price and upon the terms and conditions as set forth in the application.

3. Pacific Gas and Electric Company may sell and deliver to the California Pollution Control Financing Authority the constructed facilities pursuant to the terms and conditions set forth in the application.

4. Pacific Gas and Electric Company shall issue the bonds herein authorized for the purpose of acquiring property and for the purpose of construction, completion, extension or improvement of its facilities.

5. Pacific Gas and Electric Company shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

6. This order shall become effective when Pacific Gas and Electric Company has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$36,000.

Dated AUG 19 1980, at San Francisco, California.

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

John E. Bryn
President

William L. Sturgeon

Clarence T. Padgug

Richard D. Gravelle
Commissioners

