CACD/RHG

Decision 96-03-015 March 13, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC GAS AND ELECTRIC COMPANY U-39-M, (1) to issue, sell and deliver one or more series of Debt Securities and/or to unconditionally guarantee or otherwise secure the obligations of Authority Bonds in an aggregate principal amount not to exceed $1,347,870,000 in connection with Pollution Control Financings, the proceeds of which are to be used for the redemption or repurchase of previously issued Authority Bonds; and (2) for an exemption from the Competitive Bidding Rule.	ORIGINAL Application 96-01-021 (Filed January 22, 1996)

OPINION

Summary of Decision

This decision grants Pacific Gas and Electric Company (PG&E) the authority requested in Application 96-01-021 (Application).

PG&E requests authority under Public Utilities (PU) Code §§ 701, 816 through 830, and 851 for the following:

1. To issue, sell, and deliver, in one or more series, PG&E's first and refunding mortgage bonds (bonds), debentures, promissory notes or other evidences of indebtedness and to enter into direct loans from banks, insurance companies or other financial institutions (to be collectively referred to as Debt Securities) to or on behalf of the State of California or any political subdivision, including but not limited to the California Pollution Control Financing Authority (to be collectively referred to as Authorities or individually as the Authority), and/or to unconditionally guarantee or otherwise secure the obligations of Authorities in respect of their issuances of bonds, notes, debentures or

other securities (Authority Bonds) in an aggregate principal amount not to exceed $1,347,870,000 in connection with Pollution Control Financings;

2. To use the proceeds from the sale of securities, exclusive of accrued interest which would be used for general corporate purposes, for the redemption or repurchase of previously issued Authority Bonds; provided, however, that prior to the redemption or repurchase of previously issued Authority Bonds, the net proceeds from the issuance of the Authority Bonds would be placed in an escrow account (or used to reimburse funds placed into such account) and invested in other securities for up to 90 days; the previously issued Authority Bonds were used to finance or refinance air and water pollution control facilities, sewage systems, solid waste disposal facilities, any other facilities qualifying for tax-exempt financing under the Internal Revenue Code or any combination thereof;

3. To obtain an exemption from the Commission's Competitive Bidding Rule for Pollution Control Financings and transactions contemplated and described in the Application, including private placements with, or loans from, banks, insurance companies or other financial institutions, for the arrangement of credit support facilities such as letters of credit with terms longer than one year, and for the issuance of Authority Bonds and Debt Securities; and

4. To use any accrued interest received in connection with the Pollution Control Financings for general corporate purposes.

Notice of the filing of the Application appeared on the Commission's Daily Calendar of January 25, 1996. No protests have been received.

<u>Background</u>

PG&E, a California corporation, operates as a public utility subject to the jurisdiction of this Commission. PG&E generates, purchases, transmits and sells electricity, and purchases, transports, distributes and sells natural gas to 47 counties in Central and Northern California. PG&E also provides a small amount of incidental water and steam services.

As of December 31, 1994, PG&E had outstanding in the hands of the public $5,889,668,000 aggregate principal amount of first and refunding mortgage bonds and other debt outstanding in the amount of approximately $2,895,247,000, totaling $8,784,915,000, as shown in Exhibit A to the Application. As of September 30, 1995, long-term debt outstanding was $8,035,133,000 and short-term debt outstanding was $72,500,000, totaling $8,107,633,000, as shown in Exhibit A.

PG&E is authorized under its Articles of Incorporation to issue 800,000,000 shares of Common Stock, par value $5 per share, 75,000,000 shares of First Preferred Stock, par value $25 per share, and 10,000,000 shares of $100 First Preferred Stock, par value $100 per share (such First Preferred Stock and $100 First Preferred Stock to be collectively referred to as Preferred Stock). As of December 31, 1994, PG&E had outstanding 430,242,687 shares of Common Stock, 34,819,783 shares of First Preferred Stock and no shares of $100 First Preferred Stock, as shown in Exhibit A to the Application.

For the nine months ended September 39, 1995, PG&E reported that it generated total utility operating revenues of $7,112,634,000 and net income of $1,111,800,000, as shown in Exhibit A to the Application.

Also shown as part of Exhibit A is PG&E's balance sheet as of September 30, 1995, summarized as follows:

(In Thousands)

Assets and Other Debits	Amount
Net Utility plant (w/ Nuclear Fuel)	$18,083,064
Gas Stored Underground - Noncurrent	46,794
Other Property and Investments	2,228,271
Current and Accrued Assets	2,197,598
Deferred debits	4,448,491
Total Assets/Other Debits	$27,004,218

Liabilities and Other Credits	Amount
Common Equity	$ 8,712,341
Preferred Stock	720,495
Long-Term Debt	8,035,133
Other Noncurrent Liabilities	1,293,159
Current and Accrued Liabilities	2,495,119
Deferred Credits	5,747,971
Total Liabilities/Other Credits	$27,004,218

Proposed Transactions

PG&E seeks authority to issue, sell and deliver, in one or more series, Debt Securities to the Authorities in respect of their issuance of debt in connection with the tax-exempt financings of Qualified Facilities.

The types of Debt Securities PG&E may issue to the Authority in connection with Pollution Control Financings, described in detail on pages 12 to 14 of the Application, are as follows:

1. Secured Debt Offerings (bonds) - to be secured by PG&E's first and refunding mortgage, as amended by supplemental indentures. The aggregate principal amount of all bonds currently authorized to be issued and outstanding under the mortgage is $10,000,000,000.

2. Unsecured Debt Offerings (unsecured debentures or notes) - to be issued in accordance with an indenture. The notes may be sold with fixed or floating rates, in senior or subordinated form.

3. Direct Loans - to be borrowed from banks, insurance companies or other financial institutions. PG&E would enter into loans only when the loans are designed to result in an overall cost of money lower than that available through the issuance of alternative Debt Securities.

PG&E states that the terms and conditions of the proposed Debt Securities, including the price, interest rate, maturity date, redemption provisions, sinking fund (if any) and other provisions will be determined by market conditions at the time of sale of each series of the Debt Securities.

PG&E anticipates using the tax-exempt option in connection with the financing of its Qualified Facilities. PG&E's proposed financing structure with an Authority is described in detail on pages 9 to 11 of the Application.

The proposed refinancing with the Authority (the Pollution Control Financings) may be structured as follows:

1. The Authority would issue and sell one or more series of its Authority Bonds plus accrued interest to a group of underwriters who would ultimately market the Authority Bonds to the general public. Concurrently with the sale and delivery of the Authority Bonds, PG&E would enter into a loan agreement, or other security agreement, with the Authority.

2. Concurrently with the sale and delivery of the Authority Bonds, PG&E would issue and deliver to the Authority, in consideration of the Authority's obligations under the loan agreement, or other security agreement, entered into with the Authority, its Debt Securities plus accrued interest (the terms and conditions of such indebtedness to be substantially consistent with the terms and conditions of the Authority Bonds) or would unconditionally guarantee, or otherwise secure, the Authority's obligations in respect of the Authority Bonds.

3. PG&E would use the proceeds from the sale of securities, exclusive of accrued interest which would be used for general corporate purposes, for the redemption or repurchase of previously issued Authority Bonds; provided, however, that

> prior to the redemption or repurchase of previously issued Authority Bonds, the net proceeds from the issuance of the Authority Bonds would be placed in an escrow account (or used to reimburse funds placed into such account[1]) and invested in other securities for up to 90 days; the previously issued Authority Bonds were used to finance or refinance air and water pollution control facilities, sewage systems, solid waste disposal facilities, any other facilities qualifying for tax-exempt financing under the Internal Revenue Code or any combination thereof.

The Authority Bonds could be issued in the form of long-term fixed-rate tax-exempt securities, or in the form of a floating-rate short-term demand bonds, flexible or commercial paper-mode bonds, commercial paper, notes or some other variable interest rate tax-exempt debt instrument. As an additional obligation under the loan agreement, PG&E could cause to be delivered an irrevocable letter of credit, or other credit support facility, to the trustee of the Authority Bonds which would permit drawings by the trustee for the payment of unpaid principal and accrued interest on the Authority Bonds. This credit support facility may take the form of, but is not limited to, letters of credit, bank lines and bond insurance. PG&E may choose to use one or more forms of credit support individually or together (such as, bond insurance with bank lines). Alternatively, PG&E may determine that it is preferable not to use any credit support.

We recognize that tax-exempt financing may improve the terms and conditions of Debt Securities and may lower overall cost of money. Having previously granted similar authorizations for financings with an Authority, we will grant PG&E in this decision the authority requested in accordance with the terms and conditions

---

1 By supplemental letter dated February 9, 1996, PG&E provided clarification related to the flow of funds for a defeasance of the old Authority Bonds.

contemplated and for purposes stated in the Application and supplemental information.

We will require PG&E to maintain, and, within thirty days from request, provide the Commission Advisory and Compliance Division (CACD) any or all of the following:

1. The price, interest rate and other terms pertaining to its issuance of Authority Bonds and Debt Securities.

2. If the Authority Bonds are sold by means of a public offering, copies of its final prospectus pertaining to the Authority Bonds.

3. In relation to the issuance and sale of any series of the Authority Bonds and Debt Securities by negotiated public offerings or private placements, including commercial bank borrowings, in either the domestic or foreign markets, a report showing why the resulting interest rate and cost of money were the most advantageous to PG&E and its ratepayers.

Competitive Bidding Rule

PG&E requests an exemption from the Commission's Competitive Bidding Rule for Pollution Control Financings and the transactions contemplated in the Application, including private placement with, or loans from, banks, insurance companies or other financial institutions; for the issuance of credit support facilities such as letters of credit with terms longer than one year; and for the issuance of Authority Bonds or Debt Securities.

Under Resolution F-616, the Commission's Competitive Bidding Rule is not applicable to debt issues for which competitive bidding is not viable or available. Exhibit A to Resolution (Res.) F-616 states:

> Securities privately placed with specific lenders and bank term loans obviously must be negotiated. ... Certain tax-exempt pollution control bonds have terms which are specifically negotiated. ... It is reasonable that these types of debt instruments should be exempt from the Competitive Bidding Rule.

CACD advises us that PG&E's requests and reasons for exemption from the Competitive Bidding Rule raise no questions that should dissuade us from giving favorable consideration to the matter. We will accept CACD's recommendations.

As was permitted in Decision (D.) 91-12-021 dated December 4, 1991, D.92-06-031 dated June 3, 1992, D.93-06-082 dated June 23, 1993, and D.95-09-023 dated September 7, 1995, we will authorize for this Application an exemption from the Competitive Bidding Rule for debt issues such as those cited above.

We will also permit PG&E to be exempt in this case from the Competitive Bidding Rule for the issuance of credit support facilities such as letters of credit. Res. F-616 specifically provides that in response to changing business and economic conditions and the emergence of more complex and sophisticated financing methods, a number of debt securities, either by their nature or by established business practices, do not lend themselves to competitive bidding.

<u>Construction Budgets</u>

PG&E's construction budgets for the years 1995, 1996, and 1997 amount to approximately $3,739,000,000, shown as Schedule I of the supplemental data to the Application (estimated as of December 31, 1995). Major classifications of the total budgeted construction are summarized as follows:

	(In Thousands)		
Component	1995	1996	1997
Electric Department	$ 834,000	$ 933,000	$ 890,000
Gas Department	343,000	366,000	373,000
Total	$1,177,000	$1,299,000	$1,263,000

We will not make a finding in this decision on the reasonableness of the estimated construction expenditures. These are issues normally tested in general rate cases or other proceedings.

Cash Requirements Forecasts

As shown in Schedule III of the supplemental data to the Application, PG&E's cash requirements forecasts for the years 1995, 1996 and 1997 (estimated as of December 31, 1995) are summarized as follows:

	1995	(In Thousands) 1996	1997
Funds Used or Required for Construction Expenditures (excluding Allowance for Funds Used During Construction (AFUDC) and reimbursables)	$1,143,672	$1,268,793	$1,234,233
Maturities and Redemption of Long-Term Debt (including sinking fund requirements and Preferred Stock)	939,683	1,333,427	681,015
Subtotal	$2,083,355	$2,605,220	$1,915,248
Less: Estimated Cash from Internal Sources (excluding AFUDC)	2,759,355	1,647,350	1,102,248
Additional New Funds Required from Outside Sources	$(676,000)	$ 957,870	$ 813,000

PG&E's cash requirements forecasts indicate that internally generated funds will provide approximately 132.4% of the 1995 cash requirements, approximately 63.2% of the 1996 cash requirements, and approximately 57.6% of the 1997 cash requirements.

Capital Ratios

PG&E's capital ratios as of September 30, 1995 are shown below, as recorded and as adjusted to give pro forma effect to the transactions that follow:

	(In Thousands) September 31, 1994		Pro forma	
Long-Term Debt	$ 8,035,133	45.8%	$ 8,822,926	42.5%
Short-Term Debt	72,500	0.4%	1,835,016	8.8%
Total Debt	$ 8,107,633	46.2%	$10,657,942	51.3%
Preferred Stock	$ 720,495	4.1%	$ 902,055	4.3%
Common Equity	8,712,341	49.7%	9,217,214	44.4%
Total	$17,540,469	100.0%	$20,777,211	100.0%

PG&E states in the Application that the pro forma capitalization ratios, as set forth above, include the maximum amount of securities authorized, and do not reflect PG&E's expected financial performance and financing policies.

Debt

1. Credit facilities not exceeding $1,000,000,000 aggregate principal amount (authorized by D.86-08-051 dated August 18, 1986, D.87-05-045 dated May 29, 1987, D.93-05-051 dated May 19, 1993 and D.93-11-062 dated November 23, 1993). (Standby lines of credit with banks in the amount of $1,000,000,000 have been executed but no borrowings were outstanding on September 30, 1995 or as of the date of the Application);

2. The proposed remaining issuance of long-term debt obligations from PG&E to the State of California, Department of Water Resources in an aggregate principal amount not exceeding $96,804,215 (authorized in the amount of $73,500,000 by D.82-12-008 dated December 1, 1982 and as increased to $136,000,000 by D.86-08-024 dated August 6, 1986);

3. The proposed remaining issuance of not exceeding $566,625,000 aggregate principal amount of Debt Securities (authorized by D.93-06-082 dated June 23, 1993 and D.94-04-084 dated April 20, 1994);

4. The retirement at maturity of $820,981,250 aggregate principal amount of outstanding Debt Securities in 1995, 1996 and 1997;

5. The redemption of (a) $145,377,000 aggregate principal amount of Debt Securities to meet sinking fund requirements and (b) $1,347,870,000 aggregate principal amount of Authority Bonds for possible redemption in 1995, 1996 and 1997;

6. The proposed remaining issuance of not exceeding $90,721,625 of the $400,000,000 aggregate principal amount of Debt Securities ($300,000,000 is included in Preferred Stock below) (authorized by D.95-09-023 dated September 7, 1995);

7. The proposed remaining issuance of Debt Securities and/or guarantees or obligations security Authority Bonds not exceeding $1,347,870,000 aggregate principal amount as requested in the Application;

8. The proposed remaining issuance of the maximum authorized amount of short-term debt securities (a total of $1,762,516,000 aggregate principal amount) (authorized by PU Code § 823(c) and by D.87-09-056 dated September 23, 1987);

<u>Preferred Stock</u>

9. The proposed remaining issuance of Preferred Stock with an aggregate par value not exceeding $62,500,000 (authorized by D.93-06-082 dated June 23, 1993 and D.94-04-084 dated April 20, 1994);

10. The tender repurchase of Preferred Stock with an aggregate par value of $180,940,000 which occurred in the fourth quarter of 1995;

11. The issuance in November 1995 of Quarterly Income Preferred Securities (QUIPS) by PG&E Capital I, a trust, with an aggregate liquidation value of $300,000,000. (For capital structure purposes and due to certain features, these securities are treated by the rating agencies like preferred equity. Concurrent with the issuance of the QUIPS, the trust also issued Common Securities to PG&E with an aggregate liquidation value of $9,278,375, which are eliminated upon consolidation of PG&E's balance sheet and are therefore excluded from the capital ratios. The trust used the proceeds from the issuance of the QUIPS and the Common Securities to purchase $309,278,375 aggregate principal amount of Deferrable Interest Debentures issued by PG&E (authorized by D.95-09-023 dated September 7, 1995));

Common Stock

12. The proposed remaining issuance of not exceeding 42,455,435 shares of Common Stock in connection with the Savings Fund Plan, the Dividend Reinvestment Plan, the Shelf Registration Program, the Stock Option Plan and the Long-Term Incentive Program (with estimated proceeds of $1,273,663,050 using a stock price of $30.00) (authorized by D.93-06-038 dated June 23, 1993 which granted PG&E's requests to combine Common Stock authorizations of 55,500,000 shares under the four currently authorized plans as well as to grant a new authorization for 40,000,000 shares);

13. The repurchase of 25,630,000 shares of Common Stock (estimated at $768,790,000 using a stock price of $30.00) in 1995 and 1996.

Capital structures are normally subject to review in cost of capital or general rate case proceedings. Therefore, we will not make a finding in this decision regarding the reasonableness of the projected capital ratios for ratemaking purposes.

Use of Proceeds

PG&E proposes to use the proceeds from the Pollution Control Financings, other than accrued interest and after payment and discharge of obligations incurred for expenses incident to the issuance and sale, for the redemption or repurchase of previously issued Authority Bonds as shown in Exhibit C to the Application. The total principal outstanding amount of these tax-exempt Pollution Control Revenue Bonds as of December 31, 1995 is $1,347,870,000.

Findings of Fact

1. PG&E needs external funds for the purposes set forth in the Application.

2. The proposed issue of Debt Securities will be used for proper purposes and is not adverse to the public interest.

3. The use of credit support facilities, including letters of credit with terms longer than one year, to guarantee PG&E's performance or payment of certain obligations is reasonable.

4. The money, property, or labor to be procured or paid for by the proposed issuance of Debt Securities is reasonably required for the purposes specified in the Application.

5. Authorizing PG&E to determine the amount, timing, terms and conditions, and method of offering its proposed Debt Securities would not be adverse to the public interest.

6. The Commission does not by this decision determine that PG&E's construction budgets, cash requirements forecasts, and capital ratios are necessary or reasonable for ratemaking purposes. These issues are normally tested in general rate case proceedings.

7. Granting PG&E's request for exemption from the Competitive Bidding Rule for the issuance of Authority Bonds or for loans from banks, insurance companies or other financial institutions would not be adverse to the public interest.

8. There is no known opposition to the proceeding and there is no reason to delay granting the authority 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.

3. The proposed issuance of Debt Securities is for lawful purposes and the money, property or labor to be obtained by them is required for these purposes. Except as otherwise authorized for accrued interest, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. This authorization is not a finding of the reasonableness of the proposed transaction, nor does it indicate the amount to be included in a ratemaking proceeding.

5. Pursuant to PU Code § 1904(b), there is no fee applicable to the proposed transaction because it is a refinancing of prior outstanding indebtedness for which a fee has previously been paid.

6. The following order should be effective on the date of signature.

ORDER

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E), on or after the effective date of this order, is authorized to do the following, upon terms and conditions substantially consistent with those set forth or contemplated in Application 96-01-021 (Application):

   a. to issue, sell, and deliver, in one or more series, PG&E's first and refunding mortgage bonds, debentures, promissory notes or other evidences of indebtedness and to enter into direct loans from banks, insurance companies or other financial institutions (Debt Securities) to or on behalf of the State of California or any political subdivision, including but not limited to the California Pollution Control Financing Authority (Authorities), and to unconditionally guarantee or otherwise secure the obligations of Authorities in respect of their issuances of bonds, notes, debentures or other securities (Authority Bonds) in an aggregate principal amount not to exceed $1,347,870,000 in connection with Pollution Control Financings;

b. to use the proceeds from the sale of securities, exclusive of accrued interest which would be used for general corporate purposes, for the redemption or repurchase of previously issued Authority Bonds; provided, however, that prior to the redemption or repurchase of previously issued Authority Bonds, the net proceeds from the issuance of the Authority Bonds would be placed in an escrow account (or used to reimburse funds placed into such account) and invested in other securities for up to 90 days; the previously issued Authority Bonds were used to finance or refinance air and water pollution control facilities, sewage systems, solid waste disposal facilities, any other facilities qualifying for tax-exempt financing under the Internal Revenue Code or any combination thereof;

c. to use any accrued interest received in connection with the Pollution Control Financings for general corporate purposes.

2. PG&E may arrange credit agreements or other credit support facilities as may be necessary for the purpose of engaging in Pollution Control Financings as authorized herein and may modify such credit support facilities without further authorization from the Commission.

3. PG&E's proposed issuance of Debt Securities in connection with Pollution Control Financings and transactions contemplated in the Application, including private placements with, or loans from banks, insurance companies or other financial institutions; the issuance of credit support facilities such as letters of credit with terms longer than one year; and the issuance of Authority Bonds and Debt Securities are exempted from the requirements of the Commission's Competitive Bidding Rule.

4. PG&E shall maintain, and, within thirty days from request, provide the Commission Advisory and Compliance Division any or all of the following:

a. The price, interest rate and other terms pertaining to its issuance of Authority Bonds and Debt Securities.

b. If the Authority Bonds are sold by means of a public offering, copies of its final prospectus pertaining to the Authority Bonds.

c. In relation to the issuance and sale of any series of the Authority Bonds and Debt Securities by negotiated public offerings or private placements, including commercial bank borrowings, in either the domestic or foreign markets, a report showing why the resulting interest rate and cost of money were the most advantageous to PG&E and its ratepayers.

5. On or before the 25th day of each month, PG&E shall submit the reports required by General Order 24-B.

6. The Application is granted as set forth above.

This order is effective today.

Dated March 13, 1996, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners