

FEB 4 1998

Decision 98-02-035 February 4, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company, a California corporation, and Fred Ryness and Associates for an Order Authorizing the Former to Sell and Convey to the latter a Certain Parcel of Land in Shasta County Pursuant to Public Utilities Code Section 851.

(U 39 M)

ORIGINAL

Application 97-04-015
(Filed April 7, 1997)

OPINION

Summary

We will approve the sale by Pacific Gas and Electric Company (applicant) of a 44-acre (approximately) portion of Shasta County Assessor's Parcel Numbers 23-340-04 and 23-210-17 (the Property) to Fred Ryness, doing business as Fred Ryness & Associates (Buyer) and the ratemaking treatment requested by applicant for this transfer.

Procedural Background

Applicant is a public utility subject to the jurisdiction of the Commission. On April 7, 1997, Applicant filed an application for authority to transfer the Property, which is on a 290-acre parcel located at PG&E's Pit 1 Hydro Project in eastern Shasta County, California, to Buyer, who plans to open a summer camp for families. Notice of the application was published in the Daily Calendar on April 11, 1997. No protests were filed. The Office of Ratepayer Advocates (ORA) filed a response on May 8, 1997, and recommends that the transfer be approved, subject to an express condition that PG&E's shareholders should bear any costs associated with expansion of easements that are not recoverable under applicable tariffs.

Discussion

No public utility may transfer its property that is necessary or useful in the performance of its duties to the public without first having secured the Commission's authorization. (Public Utilities (PU) Code § 851.) The Property is presently used for public utility lines and road access to applicant's adjacent hydroelectric station. Therefore, the Property is useful, and PU Code § 851 applies.

The Property was originally developed to provide accommodations for workers during construction of the adjacent hydroelectric facility. There are seven buildings located on the property, including a common dining hall and recreation building, a dormitory, a duplex, three single-family houses, and a shop building. In addition, several sheds and outbuildings are located on the Property. Other site improvements on the Property include an underground water system, paved and gravel interior roads, a large lawn with sprinklers, and a tennis court.

Applicant listed the Property with a real estate broker, who received bids between mid-May and mid-July 1995. Buyer offered to purchase the Property for development as a recreational facility. Applicant determined that it could retain easements sufficient for its existing and projected needs for electrical and surface access to the adjacent hydroelectric facility if it transferred ownership of the Property to Buyer. Applicant and Buyer entered into an agreement (Purchase Agreement) for sale of the Property to Buyer for \$425,000, subject to the approval of this Commission. The Purchase Agreement reserves to applicant easements for its existing electric facilities and road access. In addition, the Purchase Agreement reserves the right to store gravel on a portion of the Property for two years.

Applicant may have handled, treated, stored or disposed of hazardous substances on or adjacent to the Property. The Purchase Agreement provides that Buyer releases applicant from claims based on any contamination that may be discovered in the future whether it resulted from a release before or after the closing of the sale of the Property. However, Buyer does not indemnify applicant against claims arising from contamination of the property that may occur following the transfer of the Property.

Applicant caused an appraisal to be made of the fair market value of the Property, which was found to be \$425,000. The net book value of the property at December 31, 1996 was \$246,180, of which applicant allocates \$3,055 to land and \$243,755 to buildings.

Applicant represents that the 1997 revenue requirement associated with the Property is \$77,138 including taxes, franchise fees, and an allowance for uncollectibles. This is based on annual operation and maintenance costs of approximately \$32,000, property taxes of \$2,958, depreciation expense of \$3,693, and Applicant's authorized cost of capital (11.60% on equity, and 9.45% on rate base). In its most recent General Rate Case Decision (D.) 95-12-055, that revenue requirement was included as part of applicant's aggregate revenue requirement.

Applicant proposes to remove from rate base the non-depreciable portion of the net book value of the Property, \$3,055, representing the land. Applicant further proposes to book the estimated net-of-tax proceeds of \$181,272 (after estimated expenses of \$218,225 for installation of a domestic water system for the Property, electrical and telephone service improvements, surveying of the Property, land use permitting, and repairs) for both the non-depreciable and the depreciable portion of the Property to a memorandum account named the Real Property Sales Memorandum Account, which was approved in D.97-05-028. This amount would accrue interest at the three-month commercial paper rate. Following establishment of what applicant calls a Competition Transition Charge (CTC) Revenue Account proposed in Application (A.) 96-08-070, applicant would transfer the balance in the Real Property Sales Memorandum Account to the CTC Revenue Account, with the effect of reducing the amount ratepayers would otherwise be required to pay in nonbypassable charges. Consistent with D.96-09-044 and D.96-06-009, we approved a Transition Cost Balancing Account in D.97-06-060 and D.97-11-074, which will result in the application of sales proceeds to reduce transition costs.

Under the California Environmental Quality Act (CEQA), we are obligated to consider the environmental consequences of projects, as defined, that are subject to our discretionary approval. (Public Resources (PR) Code Section 21080.) The Shasta

County Planning Commission has prepared a mitigated negative declaration for the subdivision of the Property, which encompasses all of the foreseeable indirect physical changes that might arise from the transfer of the Property. Accordingly, no further consideration of environmental consequences on our part is required.

Findings of Fact

1. Applicant is an electric utility subject to the jurisdiction of the Commission.
2. Applicant has agreed to sell the Property to Buyer.
3. The Property is presently used for electric utility line and road access to applicant's adjacent hydroelectric facility.
4. The Purchase Agreement reserves sufficient rights in the Property to permit applicant to maintain its adjacent hydroelectric facility without the necessity for owning the Property in fee simple.
5. The Shasta County Planning Commission has prepared a mitigated negative declaration for the subdivision of the Property (Resolution 19-95).
6. The Purchase Agreement contains no indemnification from Buyer to applicant for environmental liabilities arising from the post-transfer discharge of hazardous substances.
7. Applicant has assumed the risk, on behalf of its shareholders, that the easements reserved from the Property are sufficient for all present and future utility uses, and will bear any cost due to the expansion of such easements which is not funded by new customers pursuant to tariffs.

Conclusions of Law

1. Transfer of the Property is subject to PU Code § 851.
2. If transfer of the Property constitutes a project for CEQA purposes, the Shasta County Planning Commission's mitigated negative declaration for the subdivision of the Property encompasses all of the foreseeable indirect physical changes that might arise from the transfer of the Property.
3. Because Applicant has not obtained indemnification from Buyer against third-party claims for environmental liabilities arising from post-transfer discharges of

hazardous substances on the Property, applicant's shareholders should assume the risk of any such third-party claims.

4. Transfer of the Property should be approved.

5. Following transfer of the Property, Applicant should remove from rate base the non-depreciable portion of the net book value of the Property, \$3,055, representing the land, book the net-of-tax proceeds (after expenses for installation of a domestic water system for the Property, electrical and telephone service improvements, surveying of the Property, land use permitting, and repairs) for both the non-depreciable and the depreciable portion of the Property to a memorandum account named the Real Property Sales Memorandum Account, which was approved in D.97-05-028. Following establishment of the Transition Cost Balancing Account authorized in D.97-06-060 and D.97-11-040, applicant should credit the balance in the Real Property Sales Memorandum Account to the Transition Cost Balancing Account.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (applicant) may transfer to Fred Ryness & Associates the real property (Property) described in the application, subject to the terms and conditions described therein.

2. Applicant shall remove from rate base the non-depreciable portion of the net book value of the Property and shall book the net-of-tax proceeds (after expenses for installation of a domestic water system for the Property, electrical and telephone service improvements, surveying of the Property, land use permitting, and repairs) for both the non-depreciable and the depreciable portion of the Property to a memorandum account named the Real Property Sales Memorandum Account, which was approved in Decision (D.) 97-05-028. This amount shall accrue interest at the three-month commercial paper rate. Following establishment of the Transition Cost Balancing Account authorized in D.97-06-060 and D.97-11-040, applicant shall credit the balance in

the Real Property Sales Memorandum Account to the Transition Cost Balancing Account.

3. Applicant's shareholders shall bear the cost of any future expansion of easements on the Property, to the extent that such costs are not paid by customers from applicable tariffs.

4. Applicant's shareholders shall bear the cost of any third-party claims for environmental liabilities arising from the post-transfer discharge of hazardous materials on the Property.

5. This grant of authority expires if not exercised within one year of the date of this order.

6. Applicant shall provide notice to the Commission's Energy Division and the Office of Ratepayer Advocates of the recordation of the instrument of transfer of the Property, within ten days of the date of recordation, and shall provide a conformed copy of the instrument effecting such transfer.

7. Application 97-04-015 is closed.

This order is effective today.

Dated February 4, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEPPER
Commissioners