

Decision 99-03-047 March 18, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) and the Cities of Clearlake, Fortuna, Marysville and McKinleyville for an Order Under Section 851 of the California Public Utilities Code to Sell and Convey Streetlight Systems.

Application 98-11-014
(Filed November 5, 1998)

ORIGINAL

OPINION

Summary

We will approve the sale and conveyance by Pacific Gas and Electric Company (PG&E or applicant) of its streetlight systems (Streetlight Systems) described in the application located within the Cities of Clearlake, Fortuna, Marysville and McKinleyville (Cities), relieve applicant (concurrently upon the transfer and conveyance of the Streetlight Systems) of the public duties and responsibilities of owning, operating, and maintaining the Streetlight Systems, authorize the disposition of the gain on the sale to applicant's shareholders, subject to the requirement that applicant file with the Commission the final cost figures for the Streetlight Systems within 30 days following the purchase date of the transactions, and authorize the use of the pole attachment agreement in the form attached to the application for the attachment of Cities' streetlights to applicant's poles.

Categorization and Waiver of Review Period

In Resolution ALJ 176-3005, dated December 3, 1998, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were necessary. No protests have been received. Given this status, public hearing is not necessary, and it is necessary to alter the

preliminary determination made in Resolution 176-3005. Granting this application constitutes Commission approval of the change in the determination that evidentiary hearings are needed in this matter.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities (Pub. Util.) Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Procedural Background

Applicant is a public utility subject to the jurisdiction of the Commission. On November 5, 1998, applicant filed an application for authority to sell and convey the Streetlight Systems to Cities, which intend to remain applicant's customers on PG&E's LS-2 tariff. Notice of the application appeared in the Daily Calendar on November 10, 1998. No protests were filed. The Office of Ratepayer Advocates (ORA) filed a response on December 18, 1998, and recommended that the sale and conveyance be approved, subject to the condition that applicant be required to reflect in its 1999 general rate case any reduction in revenue requirements by reason of decreases in operation and maintenance expenses resulting from the sale and conveyance.

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. (Pub. Util. Code § 851.) The Streetlight Systems are presently used for the sale of electrical services, and Pub. Util. Code § 851 applies.

PG&E seeks to sell to each of the Cities the electric streetlight system located within each City. The negotiated purchase prices for the streetlight systems are as follows: (1) Clearlake - \$62,149; (2) Fortuna - \$105,906; (3) Marysville - \$257,790; and (4) McKinleyville - \$174,520. PG&E wants to sell

the streetlight systems because it has received a fair offer from the Cities. The Cities want to purchase the streetlight systems in order to reduce their electric rates. By purchasing the streetlight systems, the Cities will be able to take electric service under LS-2 tariff, instead of LS-1 tariff, and thereby lower their electric rates.

PG&E estimates that the sales of the streetlight systems will result in a net-of-tax gain of \$503,490. PG&E proposes to allocate the proceeds to the shareholders, since the ratepayers have not contributed capital to the streetlight systems. Moreover, PG&E asserts that the sales do not adversely affect the ratepayers and there will be no change in PG&E's rate base as a result of the sales.

Applicant and Cities entered into agreements (Purchase Agreements) for sale of the Streetlight Systems to Cities, subject to the approval of this Commission. The Streetlight Systems do not include applicant's poles, and the Cities and applicant propose to enter into pole attachment agreements in the form attached to the application.

Applicant represents that the sale and conveyance of the Streetlight Systems will not adversely affect existing ratepayers, who will see neither a decline in service nor an increase in cost as a result. Therefore, under Decision (D.) 89-07-016 (*In re Ratemaking Treatment of Capital Gains Derived from the Sale of a Public Utility Distribution System Serving an Area Annexed by a Municipality or Public Entity*), the gain should accrue to shareholders.

Under the California Environmental Quality Act (CEQA) we must consider the environmental consequences of projects, as defined, that are subject to our discretionary approval. (Public Resources Code § 21080). While transfers of utility assets are generally projects subject to CEQA review by the Commission, the facts of this case indicate that this sale, while a project, is not subject to CEQA.

Based upon the record, this sale does not have the potential for causing a significant effect on the environment, and accordingly the Commission need not perform further CEQA review. (CEQA Guideline 15061(b)(3).)

Findings of Fact

1. Applicant is an electric utility subject to the jurisdiction of the Commission.
2. Notice of the filing of the application appeared in the Daily Calendar on November 10, 1998. No protests were filed.
3. Cities are municipalities created and existing under the laws of the State of California.
4. Applicant has agreed to sell the Streetlight Systems to Cities.
5. The Streetlight Systems are located within the Cities.
6. The Purchase Agreements provide that applicant shall be relieved of its obligations for streetlight service.
7. Applicant's ratepayers have not contributed capital to the Streetlight Systems.
8. The sale and conveyance of the Streetlight Systems will not adversely affect existing ratepayers.
9. Applicant did not object to ORA's recommendation that it be required to reflect the results of the sale and conveyance of the Streetlight Systems in applicant's 1999 general rate case.

Conclusions of Law

1. A public hearing is not necessary.
2. The sale and conveyance of the Streetlight Systems is subject to Pub. Util. Code § 851.
3. The sale and conveyance of the Streetlight Systems does not require further CEQA review by the Commission.
4. The sale and conveyance of the Streetlight Systems should be approved.

5. Applicant should be authorized to enter into pole attachment agreements with Cities as described in the application.

6. Applicant should be relieved of the public duties and responsibilities of owning, operating, and maintaining the Streetlight Systems concurrently with the sale and conveyance of the Streetlight Systems.

7. The proposed sale and conveyance of the Streetlight Systems meet criteria for a public utility to sell utility property to a municipality or governmental entity, and for the utility to accrue any gain on such sale to its shareholders.

8. Applicant should be required to reflect the results of the sale and conveyance of the Streetlight Systems in its 1999 general rate case.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (applicant) may sell and convey to the Cities of Clearlake, Fortuna, Marysville and McKinleyville (Cities) the properties (Streetlight Systems) described in the application, subject to the terms and conditions described therein.

2. Applicant may enter into pole attachment agreements with Cities in the form attached to the application.

3. Within 30 days of the sale and conveyance of the Streetlight Systems, applicant shall file an advice letter to report the gain on sale of the Streetlight Systems and may accrue any such gain to its shareholders.

4. The authority granted hereby expires if not exercised within one year of the date of this order.

5. Applicant shall be relieved of the public duties and responsibilities of owning, operating, and maintaining the Streetlight Systems concurrently with the sale and conveyance of the Streetlight Systems.

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6. In its test year 1999 general rate case, applicant shall account for the lower operation and maintenance costs resulting from the sale and conveyance of the Streetlight Systems.

7. Application 98-11-014 is closed.

This order is effective today.

Dated March 18, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners