

Decision 00-02-022 February 3, 2000

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company (U 39-E) and the Cities of Antioch and Salinas for an Order Under Section 851 of the California Public Utilities Code to Sell and Convey Streetlight Systems.

Application 99-08-032  
(Filed August 13, 1999)

(U 39-E)

**O P I N I O N**

**Summary**

We will approve the sale and conveyance by Pacific Gas and Electric Company (applicant or PG&E) of its streetlight systems (Streetlight Systems) described in the application located within the Cities of Antioch and Salinas (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 transaction, and authorize the use of the pole attachment agreement in the form appended to the application for the attachment of Cities' streetlights to applicant's poles.

**Procedural Background**

Applicant is a public utility subject to the jurisdiction of the Commission. On August 13, 1999, applicant filed an application for authority to sell and convey the Streetlight Systems to Cities, which intend to remain applicant's

customers on its LS-2 tariff. Notice of the application appeared in the Daily Calendar on August 17, 1999. No protests were filed. The Office of Ratepayer Advocates (ORA) filed a response on September 8, 1999, recommending that the sale and conveyance be approved on the terms and conditions specified in the Purchase and Sale Agreement attached to the application.

In Resolution ALJ 176-3022, dated September 2, 1999, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3022.

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

### **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 Section 851 of the Public Utilities Code applies.

Cities are municipalities located in California. The Streetlight Systems, as described in the application, are located entirely within the Cities. Currently, the Cities take streetlight service under applicant's LS-1 tariff rate, which pays applicant's costs of owning, operating, and maintaining the Streetlight Systems. Cities wish to lower their overall costs for streetlight service by purchasing, operating, and maintaining the Streetlight Systems themselves, and purchasing electricity from the applicant under its LS-2 tariff rate.

The purchase price for the streetlights is as listed below (excluding any sales tax legally due) and the net value, as determined in accordance with PG&E's standard accounting practice, of any additions to and retirements from the facilities that may be made by PG&E subsequent to the dates listed below and prior to the conveyance of the facilities to Cities.

Name of City	Purchase Price	Additions/Retirements Date
Antioch	\$1,682,844	August 28, 1997
Salinas	\$ 992,288	August 28, 1997

The estimated gain that results from each of the sales is listed below:

Name of City	Estimated Gain
Antioch	\$ 571,635
Salinas	\$ 589,926

PG&E will file the final cost figures for each of the Streetlight Systems within 30 days of the closing date for each sale.

Applicant and Cities entered into an agreement (Purchase and Sale Agreement) for sale of the Streetlight Systems to Cities, subject to the approval of the 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 there will be no change in its rate base as a result of the sale and conveyance of the Streetlight Systems. Applicant provided the declaration of its manager of capital accounting that ratepayers have not contributed capital to the Streetlight Systems, either to their initial purchase or to any subsequent upgrades or modifications. 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 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 these sales, while projects, are not subject to CEQA.

Based upon the record, these sales do 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).)

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

### **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 August 17, 1999. 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.

**Conclusions of Law**

1. A public hearing is not necessary.
2. The sale and conveyance of the Streetlight Systems is subject to Section 851 of the Public Utilities Code.
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 meets the criteria for a public utility to sell utility property to a municipality or government entity, and for the utility to accrue any gain on such sale to its shareholders.

**O R D E R**

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company (applicant or PG&E) may sell and convey to the Cities of Antioch and Salinas (Cities) the property (Streetlight Systems) described in the application, subject to the terms and conditions described therein.
2. Applicant may enter into a pole attachment agreement 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.
6. Application 99-08-032 is closed.

This order is effective today.

Dated February 3, 2000, at San Francisco, California.

RICHARD A. BILAS  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
CARL W. WOOD  
LORETTA M. LYNCH  
Commissioners