

Decision 99-02-015 February 4, 1999

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

Application of Pacific Gas and Electric Company (U 39 E) and San Jose State University ("Trustees") acting in behalf of The Trustees of the California State University and the State of California for an Order Under Section 851 of the California Public Utilities Code to Sell and Convey Certain Electric Distribution Facilities.

Application 98-09-033  
(Filed September 29, 1998)

(U 39 E)

**OPINION**

**Summary**

We will approve the sale by Pacific Gas and Electric Company (applicant or PG&E) of certain electrical distribution facilities on the campus of the San Jose State University, as described in the application (the Property), to The Trustees of the California State University and the State of California (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 September 29, 1998, applicant filed an application for authority to transfer the Property to Buyer, which plans to operate the Property to distribute electricity on its campus. Notice of the application was published in the Daily Calendar on October 2, 1998. No protests were filed. The Office of Ratepayer Advocates (ORA) filed a response on November 2, 1998 and recommended that the transfer be approved, subject to a condition that the after-tax gain on sale would be credited to the depreciation reserve and that reduction to rate base would be

reflected in PG&E's 1999 General Rate Case, Application (A.) 97-12-020. Applicant confirmed that the after-tax gain on sale would be credited to the depreciation reserve.

In Resolution ALJ 176-3001 dated October 8, 1998, the Commission preliminarily categorized this application 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 176-3001.

### **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 electrical distribution provided by applicant to Buyer. Therefore, the Property is useful, and PU Code § 851 applies.

The Property consists of electrical distribution facilities located on the campus of the San Jose State University. Buyer offered to purchase the Property so that it would be able to take service under Schedule E-20 P, which will enable it to take service at a higher voltage and lower rate, but which requires Buyer to assume the cost of owning and operating the Property. Applicant and Buyer entered into an agreement (Purchase Agreement) for sale of the Property to Buyer for \$816,000.

Applicant and Buyer indemnify each other against claims arising from environment contamination in connection with the Property that arise from releases occurring before and after the transfer of the Property.

The net book value of the Property on December 31, 1997 was \$177,056. Consistent with prior treatment of gain on sales of miscellaneous depreciable assets, applicant proposes to give ratepayers the benefit of the after-tax proceeds

from the sale, estimated at approximately \$523,328. Applicant proposes to credit such amount to the depreciation reserve, reducing rate base by an equal amount.

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.) 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 CEQA review. (CEQA Guideline 15061(b)(3)).

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU 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. Applicant has agreed to sell the Property to Buyer.
3. The Purchase Agreement contains an indemnification from Buyer to applicant for environmental liabilities arising from the post-transfer discharge of hazardous substances.

### **Conclusions of Law**

1. Transfer of the Property is subject to PU Code § 851.
2. Transfer of the Property to Buyer is not subject to CEQA review by the Commission.
3. Transfer of the Property should be approved.
4. Following transfer of the Property, applicant should credit the after-tax proceeds to the depreciation reserve.

5. Applicant should reflect the resulting reduction of its rate base in A.97-12-020.

**O R D E R**

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company (applicant) may transfer to The Trustees of the California State University and the State of California the property described in the application, subject to the terms and conditions described therein.

2. Following transfer of the property, applicant shall credit the after-tax proceeds to the depreciation reserve.

3. Applicant shall reflect the resulting reduction of its rate base in Application (A.) 97-12-020.

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

5. The issues presented in A.98-09-033 are resolved.

6. A.98-09-033 is closed.

This order is effective today.

Dated February 4, 1999, at San Francisco, California.

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