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MAIL DATE
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Decision 99-03-061 March 18, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.	Rulemaking 94-04-031 (Filed April 20, 1994)
Order Instituting Investigation on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.	Investigation 94-04-032 (Filed April 20, 1994)

ORDER MODIFYING DECISION (D.) 97-09-048 TO CORRECT A TYPOGRAPHIC ERROR, AND DENYING REHEARING OF THE DECISION, AS MODIFIED

I. INTRODUCTION

In Decision (D.)97-09-048, we established the approach we would take to review past and future expenditures for non-nuclear capital additions put into service by Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("Edison"), and San Diego Gas and Electric Company ("SDG&E"). In that decision, we also approved an ex post facto reasonableness review for capital additions costs undertaken in 1996 and 1997, and for capital additions expenditures for plants divested by March 31, 1998. (D.97-09-048, pp. 18-20.) For capital additions costs incurred in 1998 and beyond, we adopted, with some refinements, the market control approach. We determined that this approach would provide the utilities with a reasonable opportunity to recover post-1997

capital additions costs from either an Independent System Operator ("ISO") call contract or the Power Exchange ("PX") price.[1] (D.97-09-048, pp. 7, 11-18.)

PG&E timely filed an application for rehearing. In this rehearing application, the utility focuses on the Commission determinations relating to the post-1997 capital additions costs. Specifically, PG&E alleges that the decision is: (1) is inconsistent with the mandates of Public Utilities Code Section 367,[2] by foreclosing recovery of post-1997 capital additions for non-must-run plants and inappropriately limiting recovery of such costs for must-run plants; (2) erroneously characterizes recovery of capital additions under the must-run contract; (3) inappropriately prescribes a Competition Transition Charge ("CTC") fall-back for must-run plants that is so qualified that it will never be used; (4) discourages utilities from undertaking any post-1997 capital additions, and is contrary to the requirements of Public Utilities Code Section 454.9, which requires the Commission to provide a mechanism for post-1997 recovery of capital additions that becomes necessary as a result of a catastrophic event; and (5) unreasonably clouds the divestiture process and must be clarified so that the utilities will have the necessary guidance on how to recover post-1997 capital additions from the market. PG&E also argues that the Commission used a flawed process to adopt D.97-09-048, and thus, PG&E has been denied due process.

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[1] In Interim Opinion Modifying Decision 97-09-048 Regarding Review of Capital Additions [D.98-03-054, p. 1 (slip op.)] (1998) ___ Cal.P.U.C. ___, the Commission modified D.97-09-048 to order that the application of the market control approach for utility capital additions would begin with the commencement of the operation of the ISO and PX, rather than January 1, 1998. This was because of delays in the commencement of operation of these two entities.

[2] Public Utilities Code Section 367 was one of the many statutes enacted by the Legislature in Assembly Bill ("AB") 1890 (Stats. 1996, ch. 854).

Responses were filed by The Utility Reform Network ("TURN"), the Independent Energy Producers Association ("IEP"), and the Office of Ratepayer Advocates ("ORA"). The responses oppose the application for rehearing.[3]

We have reviewed each and every allegation raised in PG&E's application for rehearing, and are the opinion that good cause does not exist for granting rehearing. However, we do note that D.97-09-048 does contain a typographical error on page 19 which we will correct. Otherwise, PG&E's rehearing application is denied.

We note that several of the issues raised by PG&E in its rehearing application constitute challenges to D.97-09-048 on policy grounds, rather than alleging specific legal error. These issues relate to PG&E's claims that (1) Commission was wrong in its determination that the must-run contract options offered by the ISO will afford the utilities the opportunity to recover the costs of capital additions needed to maintain system reliability; (2) the Commission's CTC fall-back provisions[4] were so qualified as to be never used; (3) D.97-09-048 discourages utilities from undertaking any post-1997 capital additions; and (4) D.97-09-048 unreasonably clouds the divestiture process. In raising several of these policy issues, PG&E alleges that it is requesting the Commission to either modify or clarify the determinations made on these issues. However, we note that these requests for modification or clarification essentially constitute attempts to

[3] We note that ORA filed its response late, because its attorney was out of the country until the day before the responses were due. ORA's response was received for filing in the docket office one day after the due date. Since we believe that no party was prejudiced, we affirm the acceptance of this late-filed response.

[4] These provisions were adopted in case the Federal Energy Regulatory Commission ("FERC") significantly modified the ISO contracts so as to result in the utilities not having a reasonable opportunity to recover the costs of additions to must-run plants via the ISO contracting process. (D.97-09-048, pp. 17-18.)

relitigate the policy determinations made in D.97-09-048. We did not intend to grant these requests. Accordingly, this order mainly focuses on those issues in the application for rehearing that raise a specific allegation of legal error.

II. DISCUSSION

1. The Commission's adoption of the market control approach was consistent with Public Utilities Code Section 367.

In D.97-09-048, we adopted the market control approach, which provided for recovery of post-1998 capacity additions costs through the market, via ISO and PX contracting and pricing arrangements. (D.97-09-048, pp. 12, 17.) In adopting this approach, we concluded that "[g]iven the responsibilities of the ISO, the ISO's determination of what facilities are required to maintain system reliability is a reasonable standard for purpose of implementing [Public Utilities] Code [Section] 367." (D.97-09-048, pp. 17 & 23 [Conclusion of Law No. 6].) However, the Commission also refined the market control approach to permit utilities an opportunity to propose CTC recovery of the costs of post-1997 capital additions to must-run plants, if four requirements were met. (D.97-09-048, pp. 17-18 & 23-24 [Conclusion of Law No. 7].)

In its rehearing, PG&E argues that these determinations relating to the market control approach are contrary to Public Utilities Code Section 367. It contends that this statutory provision prohibits the Commission from adopting the market control approach for recovery of post-1997 capital additions costs, because it unlawfully forecloses the recovery of post-1997 capital additions for non-must-run plants through CTC, and inappropriately limits recovery of such costs for must-run plants through this nonbypassable charge. (Application for Rehearing, pp. 3-9.) PG&E interprets Public Utilities Code Section 367 to mean that all capital additions expenditures for all generating facilities existing as of December 20, 1995, which are not recoverable from the market and necessary to maintain

these generating facilities through the end of 2001, are eligible for recovery in the CTC (to the extent uneconomic), and thus, the Commission is precluded from determining otherwise. (Application for Rehearing, p. 3.)

PG&E's interpretation of Public Utilities Code Section 367 is wrong, because it ignores the plain language in the statute, which provides, in relevant part:

> "The [C]ommission shall identify and determine those costs and categories of costs for generation-related assets and obligations, consisting of generation facilities, generation-related regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, restructurings, renegotiations or terminations thereof approved by the [C]ommission, that were being collected in [C]ommission-approved rates on December 20, 1995, and may become uneconomic as a result of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, and that the [C]ommission determines are reasonable and should be recovered, and provided that these additions are necessary to maintain the facilities through December 31, 2001. These uneconomic costs shall. . . be recovered from all customers. . . , on a nonbypassable basis and shall:
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> . . .
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> (c) Be limited in the case of utility-owned fossil generation to the uneconomic portion of the net book value of the fossil capital investment existing as of January 1, 1998, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the [C]ommission determines are reasonable, and should be recovered, provided the additions are necessary to maintain the facilities through December 31, 2001."

(Pub. Util. Code, §367 & subd. (c), emphasis added.)

Contrary to PG&E's contention, Public Utilities Code Section 367 does not mandate that all capital additions costs are to be recovered in the CTC and prohibit us from adopting the market control approach. Rather, the statute gives us the discretion to determine which capital addition costs are "appropriate" and "reasonable" and which are "necessary." The statute does not define these terms, but leaves it to us to make this determination. Through Public Utilities Code Section 367, the Legislature has given the Commission "latitude in adopting one or a combination of approaches for determining the reasonableness of transition cost recovery for capital additions" (see D.97-09-048, p. 13) and how these costs should be appropriately recovered, either in the CTC or through the market control approach. Therefore, Public Utilities Code Section 367 did not preclude us "from determining that the appropriate and reasonable level of costs necessary to maintain utility facilities after 1998 was that level determined via the ISO and the PX contracting and pricing arrangements" (D.97-09-048, p. 12), and adopting the market control approach.

Also, PG&E asserts that Public Utilities Code Section 367(c) prohibits the Commission from treating the post-1997 capital additions costs like going-forward costs that must be recoverable in the market. This assertion is based on its interpretation that the language in this statute limits recovery of costs from the market to specific going-forward costs of fossil plants, and not other types of capital additions expenditures. As to these other types of capital additions costs, PG&E argues that the statute requires recovery in CTC. (Application for Rehearing, p. 7.) However, this interpretation is wrong. Nothing in this statutory provision prevents us from exercising our discretion and determining that it is "appropriate" and "reasonable" that post-1997 capital additions, with some exceptions, will be recovered from the ISO or PX revenues.

Furthermore, our adoption of the market control approach is consistent with the objective to create a level playing field for all market participants during the transition to a fully competitive electric service industry, while at the same time encouraging utilities to make cost-effective investments that will maintain reliability of the electric system. Moreover, the utilities will have an opportunity to recover the costs of those investments during the transition period, as intended by Public Utilities Code Section 367. (See Pub. Util. Code, §367; see also generally, D.97-09-048, p. 13, and Pub. Util. Code 367, and Pub. Util. Code, §330, subds. (d)-(f), (k)-(l), (p), and (s)-(t).)

2. The Commission did not err in determining that the contracting options offered by the ISO will afford the utilities the opportunity to recover the costs of capital additions needed to maintain system reliability.

In D.97-09-048, we explained why the contracting options offered by the ISO, which were identified as Agreements A, B and C, will afford the utilities the opportunity to recover the costs of capital additions needed to maintain system reliability. (D.97-09-048, pp. 13-16.) In this discussion, we rejected PG&E's characterization of the ISO contract options. (D.97-09-048, pp. 15-16.)

In its rehearing application, PG&E challenges this determination. (Application for Rehearing, pp. 9-11.) PG&E argues that the ISO contracting options do not guarantee full recovery of capital additions costs. It further argues that limiting recovery to what is available under the must-run contracts allegedly will result in forcing the utilities to shut down plants. (Application for Rehearing, pp. 10-11.) We observe that PG&E's challenge amounts to no more than an attempt to relitigate the our policy determination, since it raised similar policy arguments in its reply comments. (See Response of PG&E to ORA's Comments on the Capital Additions Workshop, pp. 1-3.) In D.97-09-048, we rejected these

arguments. We will not permit PG&E to relitigate this issue, and thus, its challenge on this determination is rejected.

On this issue, PG&E also contends that AB 1890 was "drafted to ensure all plants existing on December 31, 1995 will continue to operate through the end of 2001." It further asserts that if the utilities are forced to shut down plants because the market control approach does not guarantee full recovery, then D.97-09-048 is contrary to AB 1890. (Application for Rehearing, p. 11.)

PG&E's assertion that D.97-09-048 is inconsistent with AB 1890 on this issue is without merit. The contention that we are required to guarantee full recovery so as to ensure continued operation of plants is unsupported by the plain language in the statute. Nothing in AB 1890 provides for the absolute funding of capital additions so that the plants will continuing operating. Rather, the plain language in AB 1890 indicates the contrary. Through Public Utilities Code Section 367, the Legislature left the treatment of capital additions costs to our discretion to determine which costs are "appropriate" and "reasonable," and thus, "should be recovered." (See Pub. Util. Code, §367.) Therefore, AB 1890 contains no mandate that full recovery of capital additions costs is guaranteed so as to ensure the continued operations of plants.

Further, PG&E's interpretation that AB 1890 guarantees full recovery of all capital additions costs is wrong. The statute makes no such guarantee. Rather, the Legislature merely provided the utilities with an opportunity to obtain full recovery, and not with a guarantee. (See Pub. Util. Code, §330, subd. (s).) Otherwise, we would not have been given any discretion to determine which capital additions costs were "appropriate" and "reasonable" for purposes of recovery. (See Pub. Util. Code, §367.)

3. D.97-09-048 is not inconsistent with Public Utilities Code Section 454.9.

In its rehearing application, PG&E contends that D.97-09-048 is inconsistent with Public Utilities Code Section 454.9, which provides for the establishment of Catastrophic Event Memorandum Accounts ("CEMA"). The statute provides:

> "(a) The Commission shall authorize public utilities to establish catastrophic event memorandum accounts and to record in those accounts the costs of the following:
>
> (1) Restoring utility services to customers.
>
> (2) Repairing, replacing, or restoring damaged utility facilities.
>
> (3) Complying with governmental agency orders in connection with events declared disasters by competent state or federal authorities.
>
> (b) The costs, including capital costs, recorded in the accounts . . . shall be recoverable in rates following a request by the affected utility, a [C]ommission finding of their reasonableness, and approval by the [C]ommission. The [C]ommission shall hold expedited proceedings in response to utility applications to recover costs associated with catastrophic events."
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> (Pub. Util. Code, §454.9, subds. (a) & (b).)

PG&E alleges that this statute requires the Commission "to provide a mechanism for post-1997 recovery of capital additions that become necessary as a result of a catastrophic event," and the market control approach would "preclude utilities from seeking recovery of any post-1997 capital additions necessary to restore non-must-run plants to service." (Application for Rehearing, pp. 15-16.)

For the reasons discussed below, PG&E is wrong that D.97-09-048 is contrary to Public Utilities Code Section 454.9.

D.97-09-048 does not consider PG&E's position on Public Utilities Code Section 454.9. This specific allegation of legal error is raised for the first time in the instant proceeding in PG&E's application for rehearing. In its comments and reply comments for this proceeding, PG&E never mentions this code section. Technically, there is no legal barrier to raising the issue in the instant rehearing application.

We also note that that PG&E previously challenged one of the our recent electric restructuring decisions, namely D.97-08-056, alleging that that decision did not comport with Public Utilities Code Section 454.9. This challenge was rejected in D.97-12-109. (Application of Pacific Gas and Electric Company to Identify and Separate Components of Electric Rates, Effective January 1, 1998, Et al. ("Unbundling Decision") [D.97-08-056, p. 20 (slip op.)] (1997) ___ Cal.P.U.C.2d ___; Order Disposing of PG&E's Petition for Modification of D.97-08-056 [D.97-12-109, pp. 3-5 (slip op.)] (1997) ___ Cal.P.U.C.2d ___.)

In D.97-08-056, we adopted a proposal to eliminate CEMA for generation-related costs for all utilities effective January 1, 1998, so that these costs would not be recovered in distribution rates. We reasoned that the memorandum account would provide a competitive advantage to utilities. (Unbundling Decision [D.97-08-056], supra, at p. 20 (slip op.).) PG&E filed a petition for modification of this decision, arguing that our determination not to permit the utilities to recover generation costs in distribution rates was inconsistent with Public Utilities Code Section 454.9. In denying the petition for modification on this issue, we observed in Order Disposing of PG&E's Petition for Modification of D.97-08-056 [D.97-12-109], supra, at p. 4 (slip op.):

> "We assume that the utilities request not simply a finding that they may record in CEMA generation

> costs associated with catastrophic event but a finding that those costs may be recoverable in distribution rates. We also assume that no party would object to the utilities' proposal for how to record costs, but to their implicit proposal to recover them in distribution rates. In that context, the issue is effectively whether Section 454.9 requires the Commission to include in distribution rates certain costs associated with generation. We find that it does not. Section 454.9 requires the Commission to provide the utilities an opportunity to recover reasonable costs in utility rates. D.97-08-056 did not find that generation costs associated with catastrophic events could not be recovered from utility customers in utility rates. It found that generation costs associated with catastrophic events could not be recovered from utility customers in their distribution rates. The utilities, like other generation sellers, will have the opportunity to recover their generation costs in generation rates. The assumption of this liability increases the utilities' risk of recovering their costs but it does not deny the utilities the opportunity to recover them."

In D.97-12-109, we explained why our interpretation of Public Utilities Code Section 454.9 was consistent with legislative history and statements of statutory intent, and the mandates of AB 1890 to open generation markets to competitors beginning January 1, 1998. (See id., citing to Pub. Util. Code, §368, sub. (b).) We further stated in this decision that our "interpretation and implementation of AB 1890 is in effect a finding that requiring distribution customers to subsidize the costs of generation plant is unreasonable both as a matter of law and policy," and since "Public Utilities Code Section 454.9(b) requires a finding of reasonableness, no regulatory purpose is served by permitting the utilities to enter the costs" into the CEMAs. (Order Disposing of PG&E's Petition for Modification of D.97-08-056 [D.97-12-109], supra, at p. 4 (slip op.).)

PG&E's argument that our adoption of the market control approach is inconsistent with Public Utilities Code Section 454.9 has no merit for similar

reasons expressed in D.97-12-109. In determining that post-1997 capital addition costs for non-must-run plants will be recovered from the market, we did not foreclose the utilities' opportunity to recover capital costs resulting from catastrophic events from utility rates, as provided for in the statute. Rather, D.97-09-048 gives the utilities, as well as other generation sellers, the opportunity to recover through competition their generation costs, including capital additions expenditures associated with catastrophic events, in their generation rates. This is consistent with the legislative mandates in AB 1890 to open generation markets competitors and to promote competition. (See Unbundling Decision [D.97-12-109], supra, at p. 4 (slip op.).) Thus, since the market control approach will provide the utilities with the opportunity to recover through the market capital additions costs associated with generation and incurred in 1998 and beyond, the utilities, like its competitors, will also have an opportunity to recover in utility generation rates the "reasonable" capital costs, including those associated with catastrophic events, as provided for in Public Utilities Code Section 454.9. Thus, D.97-09-048 is not inconsistent with this statutory provision.

4. PG&E's proposals for clarifying D.97-09-048 on the issue relating how the utilities would recover post-1997 capital additions costs from the market are rejected.

In its rehearing application, PG&E claims that D.97-09-048 has clouded the divestiture process because the issue concerning how capital additions costs will be treated as part of the market valuation was left undecided. It appears that PG&E raises this claim, not as one of legal error, but for purposes of requesting a clarification of D.97-09-048 so as to provide some guidance on market valuation "so that the utilities can structure their plant sales in order to attempt to recover the costs of post-1997 capital additions from the market." (Application for Rehearing, p. 17.) PG&E offers suggestions regarding how

capital additions costs should be recovered as a result of divestiture or appraisal. (Application for Rehearing, pp. 17-19.) Some of the guidance that PG&E offers in its rehearing application amount to policy determinations, e.g., the suggestion that "the Commission should allow the unamortized costs of the addition to be recovered through the sale of the plant by adding it to the plant's net book value" and the recommendation that the "Commission [should] adopt the process and criteria for recovery of capital additions applicable to hydroelectric and geothermal facilities proposed by PG&E in the Generation [Performance Based Ratemaking] proceeding." (Application for Rehearing, pp. 18-19.)

We are of the opinion that the request for clarification is unnecessary and reject the suggestions of guidance that PG&E proposes in its rehearing application. In D.97-09-048, we found ORA's supplemental proposal regarding market valuation beyond the scope of the instant proceeding. We deferred the issue of market valuation to the proceedings that would address the utilities' applications for divestiture of specific plants, or to Phase 3 of the CTC proceeding (Application (A.). 96-08-001, et al.), which would have addressed market valuation and appraisal issues. (D.97-09-048, pp. 3 & 18.) Likewise, any consideration of PG&E's suggested "clarifications" should be raised and addressed in these proceedings.

We note that there will be no Phase 3 of the CTC. Instead, we indicated in D.97-12-096 that the issue of how post-1997 capital additions will be reflected in market valuation could be addressed in the proceedings for the market valuation applications filed pursuant to Ordering Paragraph 17 in Interim Opinion: Transition Cost Eligibility [D.97-11-074, p. 209 (slip op.)] (1997) ___ Cal.P.U.C.2d ___. (Opinion on Pacific Gas and Electric Company's Hydroelectric and Geothermal Revenue Requirement [D.97-12-096, p. 22 (slip op.)] (1997) ___ Cal.P.U.C.2d ___.)

We observe that PG&E, as well as Edison, filed market valuation applications (see A.98-05-022 & A.98-05-014, respectively), but apparently no parties in their scoping proposals for these proceedings raised this issue, and thus, the Scoping Memo and Ruling of Assigned Commissioner ("Scoping Memo and Ruling"), dated February 1, 1999, made no mention of the issue regarding how the utilities will recover their post-1997 capital addition costs from the market for those plants they retain. Thus, the issue has been left out. We will remedy this oversight by modifying the Scoping Memo and Ruling for the market valuation application proceedings to include the issue as a part of our review of the market valuation applications.

We will also modify the Scoping Memo and Ruling for A.98-05-014 & A.98-05-022 to permit the parties to file comments and reply comments on the issue. Comments will be due April 19, 1999, and reply comments will be due May 3, 1999. Our intent is to resolve this issue at the same time that we make our determinations on the market valuation applications.

5. The extension of the ex post facto review for divested plants applies to those generation plants that are sold prior to March 31, 1998.

In D.97-09-048, we extended ex post facto review for "capital additions occurring prior to divestiture of these plants, but only if this divestiture is completed prior to March 31, 1998." (D.97-09-048, p. 3.) PG&E argues that it is unclear as to what must be "completed" by such date to qualify.

D.97-09-048 is not unclear. We stated in this decision that "[r]ecovery of capital additions for plants under this mechanism will cease at the earlier of (1) when the plant is sold or (2) March 31, 1998 and should only apply to capital additions not otherwise recovered through the marketplace." (D.97-09-048, p. 3.) Accordingly, completing divestiture would mean at the time the plant is sold, and the associated financial transaction is closed. This is consistent with our

discussion on page 19 where we stated that we would apply the ex post facto review "for capital additions occurring in [1998] for those fossil-fueled plants that will be divested prior to March 31, 1998." (D.97-09-048, p. 19.) "Divested" logically would mean "sold" for purposes of qualifying for ex post facto review.

6. PG&E was afforded due process.

In its rehearing application, PG&E argues that it has been denied due process because the Commission did not conduct evidentiary hearings or provide the parties with an opportunity to comment on the draft decision. (Application for Rehearing, pp. 19-20.) However, PG&E's arguments are without merit. During the proceeding, PG&E neither made a request for such hearings or for an opportunity to make comments on the draft decision. Further, no law requires us to either conduct evidentiary hearings on these issues or to provide an opportunity for comments on the draft decision. Nor does PG&E support its due process argument with a citation to any law that we might have violated. Accordingly, PG&E's arguments that it has been denied due process have no merit.

Moreover, the parties, including PG&E, had notice and opportunity to be heard regarding the issues relating to the post-1997 capital additions costs and the market control approach. These issues were raised in the February 4, 1997 Joint Assigned Commissioners' Ruling and in the comments filed by the parties in response to this ruling. (See Joint Assigned Commissioners' Ruling Providing Additional Procedural Guidance on Phase 2 Issues and Providing Notice of Workshops, A.96-08-001, et al.,[5] dated February 4, 1997, pp. 4-6; Comments of PG&E on Guidelines for Review of Capital Additions, filed February 18, 1997, pp. 5-6; Response of ORA to Questions on Capital Additions, filed February 19, 1997,

[5] The comments to this ruling were filed in the dockets for Electric Restructuring (Rulemaking (R.) 94-04-031 and Investigation (I.) 94-04-032), rather than in the dockets for CTC proceedings, A.96-08-001, et al.

pp. 4-9.) The issues were also discussed in the Capital Additions Workshop held on February 24 and 25, 1997. PG&E participated in this workshop. (Capital Additions Workshop Report, dated March 19, 1997, pp. 2 & 7-13.) It also filed comments and reply comments on these issues. (See Comments of PG&E on Capital Additions Workshop Report, filed March 28, 1997, pp. 2-6; Response of PG&E to ORA's Comments on the Capital Additions Workshop, filed June 13, 1997, pp. 1-3.) Accordingly, PG&E obviously had sufficient notice and ample opportunity to be heard on these issues, and thus, was afforded due process. (See Dyke Water Co. v. Public Utilities Com. (1961) 56 Cal.2d 105, 124-125; People v. Western Air Lines, Inc. (1954) 42 Cal.2d 621, 632.)

THEREFORE, IT IS ORDERED that:

1. D.97-09-048 is modified to correct a typographical error. The year "1988" should be changed to "1998" on page 19, line 24 of the decision.

2. The Scoping Memo and Ruling of Assigned Commissioner, dated February 1, 1999, for the market valuation applications (A.98-05-014 & A.98-05-022) is modified to include the issue relating to how the utilities will recover post-1997 capital additions costs through the market for the generation plants they retain, and permit the parties to file comments and reply comments on this issue. Comments will be due April 19, 1999, and reply comments will be due May 3, 1999. The Executive Director shall serve a copy of the today's decision to all parties on the service list for A.98-05-014 & A.98-05-022.

3. Rehearing of D.97-09-048, as modified, is denied.

This order is effective today.

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

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