ALJ/WRI/epg

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Decision 99-06-089 June 24, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Commission Order finding that electric operations during the reasonableness review period from January 1, 1996 to December 31, 1996 were prudent. (U 39 M)	Application 97-04-001 (Filed April 1, 1997)

(See Attached Service List for Appearances.)

O P I N I O N

Summary

This decision finds that Pacific Gas and Electric Company's (PG&E) electric operations during the period from January 1, 1996 to December 31, 1996 were prudent, with the exception of disallowances agreed to by the parties. In addition we disallow the claimed incentive awards of $2.47 million or ten percent of the benefits resulting from restructuring 25 Qualifying Facilities (QF) power purchase contracts during the 1996 Record Period.

Senate Bill 960

Under Rule 4(b)(1) of the Commission's Rules of Practice and Procedure (Rules), this proceeding is an "included proceeding" pursuant to Resolution ALJ-170 and is subject to the provisions of Article 2.5 of the Rules.

A Scoping Memo and Ruling of Assigned Commissioner was filed on April 7, 1998. The Scoping Memo confirmed that this is a ratesetting proceeding and designated the assigned Administrative Law Judge (ALJ) as the principal hearing officer.

Procedure

On April 1, 1997, PG&E filed this application and its Report on the Reasonableness of Electric Operations for 1996 (January 1, 1996 through December 31, 1996). The report reviewed PG&E's electric system management policies and actions during the 1996 Record Period. Specifically, the report described: PG&E's use of available electric generation resources and purchased power supplies; the operation and maintenance practices at PG&E's fossil fuel and geothermal plants; the natural gas purchase policies and procurement practices and the fuel oil management practices for PG&E's fossil fuel plants; PG&E administration of its QF power purchase agreements and PG&E's special electric agreements.

The Office of Ratepayer Advocates (ORA), the only other active party in this proceeding, filed its Reasonableness Report on PG&E's 1996 Record Period on October 31, 1997, finding PG&E's operation of its electric system during the 1996 Record Period to have been reasonable, with the following exceptions:

(a) ORA recommended a $2.63 million disallowance for energy sold off-system;

(b) ORA recommended audit adjustments of approximately $83,000;

(c) ORA recommended a $13.2 million disallowance relating to PG&E's off-system sales for the 1995 Record Period, consistent with the finding in Decision (D.) 97-08-061; and

(d) ORA recommended rejection of PG&E's request for a $2.47 million incentive for renegotiation of its QF contracts.

A prehearing conference was held on December 30, 1997, at which time PG&E noted its agreement with three of the four recommendations made by ORA or specifically:

(a) PG&E agreed that $2.63 million should be disallowed for energy sold off-system during the 1996 Record Period to be consistent with the policy set forth in D.97-08-061, which was issued after PG&E had filed its 1996 Reasonableness Report.

(b) PG&E agreed with ORA's proposed audit adjustments of approximately $83,000, which had actually been discovered and brought to ORA's attention by PG&E after the original filing was made. PG&E has already made these adjustments to its books.

(c) PG&E also agreed with ORA's recommended disallowance of $13.2 million relating to off-system sales for the 1995 Record period, consistent with the findings of D.97-08-061, which, as noted above, was issued after PG&E had filed its 1996 Reasonableness Report. PG&E and ORA filed a joint motion on November 10, 1997, in the 1995 electric reasonableness proceeding, expressly requiring PG&E to credit the Electric Deferred Refund Account for this $13.2 million disallowance. This motion was granted in D.98-04-026, thereby closing the 1995 proceeding.

Item (d) of ORA's report - the recommended disallowance of applicant's request for a $2.47 million incentive for renegotiation of its QF contracts - remained as the sole contested issue in this proceeding.

A one-day hearing was held on April 14, 1998 at which time counsel for PG&E and ORA stipulated that, to the extent the Commission grants PG&E's request for the shareholder incentive award in this proceeding, resolution of the methodology for calculating the award would be deferred to the ongoing electric restructuring proceeding Rulemaking (R.) 94-04-031 and Investigation (I.) 94-04-032. In other words, PG&E and ORA agreed that the issue of whether the ten- percent shareholder incentive should be calculated based on actual or

forecasted savings would be determined by the final decision in the rulemaking proceeding. In addition, PG&E and ORA agreed that, if the Commission determined that the shareholder incentive award should be based on forecasted savings, ORA would have the right to question the accuracy of PG&E's forecast figures in any advice filing or compliance filing proceeding that PG&E initiates to recover the incentive award.

The matter of the incentive award was briefed by the active parties, and the application submitted for decision on June 1, 1998.

Incentive Award

ORA recommends disallowance of PG&E's requested $2.47 million in incentive awards for calendar year 1996 because allowance of said sum would constitute retroactive ratemaking.

PG&E requests an incentive reward of a $2.47 million which represents ten percent of the expected benefits resulting from restructuring 25 QF power purchase contracts during the 1996 record period.

ORA's brief explains its opposition to the allowance of incentive awards during 1996 as follows:

> "The 25 QF contracts which PG&E restructured during the record period were executed prior to the approval of the Qualifying Facilities Shareholder Savings Subaccount (QFSSS), an Industry Restructuring Memorandum Account (IRMA) Subaccount. The QFSSS, as adopted, records the shareholder incentive portion of the projected benefits associated with Commission approved QF contract restructurings, including buy-outs, buy-downs or renegotiations of QF contracts. In D.95-12-063, as modified by D.96-01-009, the Commission encouraged renegotiation of QF contracts and adopted a policy which would allow the utilities to retain ten percent of the resulting ratepayer benefits to be reflected by an adjustment to the Competitive Cost Transition (CTC) if the modification is approved by the Commission.

> "The utilities should only recover the percent shareholder incentive rewards relating to QF contracts that were renegotiated, amended or modified from the date of the approval of the memorandum account (Advice Letter (AL) 1642-E). The effective date of the memorandum account is December 30, 1996. Therefore, the Commission should allow recovery of rewards earned after December 30, 1996. Doing otherwise constitutes retroactive ratemaking. Thus, PG&E's shareholders may retain ten percent of the net ratepayer benefits only from QF contracts that were restructured subsequent to the effective date of the memorandum account.
>
> "All of the restructurings for which PG&E seeks the shareholder reward in this proceeding were entered into prior to December 30, 1996, the effective date of the QFSSS. Therefore, ORA recommends that the Commission deny PG&E 's request for the recovery of $2.47 million representing the ten percent shareholders incentive from the restructuring of 25 QF contracts prior to December 30, 1996."

ORA, recognizing that, by its own terms, AL 1642-E approves PG&E 's collection of the incentives at issue, makes the following request:

> "ORA also requests that the Commission order PG&E to resubmit its AL 1642-E to comply with the Commission policy against retroactive ratemaking. ORA recommends that the Commission issue a resolution revising PG&E 's tariff to specifically delete a sentence on page 2 of AL 1642-E that states 'this provision applies to all renegotiations signed on or after December 20, 1995.' The revised tariff should clearly state that it will apply (prospectively) to ratepayer benefits received only from QF contracts renegotiated on or after December 30, 1996 to coincide with the effective date of AL 1642-E, subject to a finding by the Commission that the QF contract modification is reasonable."

PG&E contends that Commission decisions have already authorized it to recover the ten percent shareholder incentives for 1996, and ORA's opposition is essentially a belated protest of PG&E 's AL 1642-E. Its brief, in part, states as follows:

"PG&E should be permitted to recover the ten percent shareholder incentive award in this proceeding because the Commission has already granted PG&E this substantive right. In its Preferred Policy Decision (D.95-12-063, as modified by D.96-01-009 and D.96-03-022), the Commission authorized PG&E's shareholders to retain ten percent of the expected ratepayer benefits resulting from restructured QF contracts. Specifically, the Preferred Policy Decision provides:

> "When a QF contract is renegotiated, shareholders should retain ten percent of the resulting ratepayer benefits, which will be reflected by an adjustment to the CTC if the modification is approved by the Commission.

(D.95-12-063 at 213, Conclusion of Law 74.) The effective date of this decision was December 20, 1995.

"A year later, in the Commission's Opinion on Cost Recovery Plans (D.96-12-077), the Commission reiterated PG&E's right to collect the ten percent shareholder incentive award for its QF contract renegotiations. Specifically, the Commission noted that, pursuant to Section 368 of Assembly Bill (AB) 1890, PG&E was required to file a cost recovery plan for 'recovery of certain costs that would otherwise be rendered unrecoverable by the move from regulation to competition.' D.96-12-077 at 2. One of the categories of uneconomic costs recoverable under the plan included 'power purchase contracts that were collected in rates on December 20, 1995 (the date of our Policy Decision).' (Id. at 4-5 (Emphasis Added).)

"In addition to reiterating PG&E's substantive right to retain the ten percent shareholder incentive, the Commission's Opinion on Cost Recovery Plans also established the procedural mechanism whereby such incentive was to be recovered. Specifically, the Commission required PG&E's 'to file an AL to establish an IRMA,' including the QF Contract Restructuring Incentive Subaccount. Id. at 36, Ordering Paragraph 6. With respect to the QF Contract Restructuring Shareholder Incentive Subaccount, the Commission stated that 'PG&E's draft preliminary statement language for this subaccount is complete and consistent with the intent of D.95-12-063,' and directed other electric utilities to use PG&E's language in their compliance filings. (Id. at 25.)

"In compliance with the Commission's Opinion on Cost Recovery Plan, PG&E filed AL 1642-E and accompanying tariff sheets. In the AL, PG&E stated:

> "The QFSSS will record the shareholder incentive portion of the benefits associated with Commission-approved contract buy-outs, buy-downs, or renegotiations of QF contracts, D.95-12-063, as modified by D.96-01-009, permits PG&E to retain a certain portion of ratepayer benefits resulting from Commission-approved renegotiations of QF contracts. This provision applies to all renegotiations signed on or after December 20, 1995. (Emphasis Added.) Similarly, the accompanying tariff sheets contained the following Commission-approved preliminary statement language:
>
> "The QFSSS . . . tracks the shareholder incentive portion of the benefits associated with contract buy-outs, buy-downs, or renegotiations of QF contracts signed on or after December 20, 1995. (Emphasis Added.) PG&E's AL 1642-E and associated tariff sheets were approved by Commission letter of June 17, 1997.

"Thus, the Commission's own previous decisions have plainly granted PG&E the right to the ten percent shareholder incentive on all renegotiated QF contracts signed on or after December 20, 1995. ORA has provided no reason for depriving PG&E of this right."

Discussion

As the Commission has repeatedly stated:

"It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking." (Re Southern California Water Company, D.92-03-094, March 31, 1992; 43 Cal.PUC2d 596, 602; emphasis in original.)

Applied to the facts in this case, Commission practice would not allow PG&E to recover the ten percent shareholder incentive for renegotiated QF contracts signed prior to December 30, 1996, the effective date of AL 1642-E which authorized PG&E to book these incentives into the QFSS subaccount.

PG&E has shown no reason why we should depart from our normal practice here. On the contrary, it appears that—in an effort to justify its recovery of shareholder incentives for QF contracts renegotiated before that date—PG&E has included in its tariff, language different than that which we directed it to use.

PG&E argues that it should be allowed to recover incentives for renegotiated QF contracts signed on or after December 20, 1995, the effective date of the Commission's Preferred Policy Decision (Re Proposed Policies Governing Restructuring, etc. D.95-12-063, 64 Cal.PUC2d 1, as modified by D.96-01-009, 64 Cal.PUC2d 228). In support of this contention, PG&E points to Conclusion of Law 74 in that decision (64 Cal.PUC2d 93):

> "When a QF contract is renegotiated, shareholders should retain ten percent of the resulting ratepayer benefits, which will be reflected by an adjustment to the CTC if the modification is approved by the Commission."

However, neither this conclusion of law nor the supporting discussion (64 Cal.PUC2d 64-65) state when this policy should take effect. Moreover, none of the ordering paragraphs of the Preferred Policy Decision appears to implement this policy. In short, everything about the discussion of the shareholder incentive in the Preferred Policy Decision suggests that the

Commission was simply stating the policy that it intended to implement at a future date.[1]

In fact, this implementation was ordered in our Cost Recovery Decision, D.96-12-077 (December 20, 1996). Ordering Paragraph 6 of that decision provides:

> "Within ten days of the effective date of this decision, PG&E . . . shall file an Advice Letter to establish an Industry Restructuring Memorandum Account (IRMA). The IRMA shall include the following subaccounts: . . . [including] Qualifying Facility Contract Restructuring Shareholder Incentive, . . . as described herein. The IRMA shall include Preliminary Statement language as modified herein, and if filed in compliance with this decision, shall be effective on the date filed." (*Slip Op.*, at 36.)

The text of that decision describes how each of the utilities prepared draft Advice Letters and Preliminary Statement language to implement the IRMA, which they submitted as supplements to their cost recovery plans. (*Slip Op.*, at 22.) The subsequent discussion of the QF Contract Restructuring Shareholder Incentive subaccount is very brief:

> "PG&E's draft Preliminary Statement language for this subaccount is complete and consistent with the intent of D.95-12-063. In their compliance filings, Edison and SDG&E should use PG&E's language." (*Slip Op.*, at 25.)

The draft Preliminary Statement language that PG&E submitted in its supplement to its cost recovery plan stated:

> "The Qualifying Facilities Shareholder Savings Subaccount (Item f, below) tracks the shareholder incentive portion of the benefits

[1] See also D.97-02-021 (Order Denying Rehearing) *slip op.* at 72 ("the Preferred Policy Decision represented an initial articulation of an electric restructuring proposal; it did not adopt one").

> associated with contract buy-outs, buy-downs, or renegotiations of Qualifying Facilities (QF) contracts."

Neither this language nor the language that PG&E included in its draft of Item f makes any mention of this account extending back to cover renegotiated QF contracts signed between December 20, 1995 and the effective date of the tariff establishing the IRMA.

As noted above, Ordering Paragraph 6 of the Roadmap II Decision directed PG&E to filed an advice letter establishing the IRMA, including the QFSS subaccount, within ten days. Ordering Paragraph 6 further provided that the tariff would be effective on the date filed if it was in compliance with the decision. The effect of making the tariff effective when filed, together with the language included in PG&E's draft preliminary statement, would allow PG&E to book into its QFSS subaccount shareholder incentives for QF contracts renegotiated on and after the date the tariff was filed. This is consistent with our normal practice described in the above quotation from Re Southern California Water Co.

As also noted above, the Cost Recovery Decision found that PG&E's draft Preliminary Statement language for its QFSS subaccount was "complete". Nevertheless, PG&E included additional language in its Preliminary Statement for its QFSS subaccount when it filed its AL 1642-E on December 30, 1996. Specifically the Preliminary Statement language filed in AL 1642-E states:

> "The Qualifying Facilities Shareholder Savings Subaccount (Item c. below) tracks the shareholder incentive portion of the benefits associated with contract buy-outs, buy-downs, or renegotiations of Qualifying Facilities (QF) contracts **signed on or after December 20, 1995.**" (Additional language emphasized.)

PG&E relies on this additional language to justify its contention that it is entitled to the ten percent shareholder incentive for renegotiated QF contracts

signed in 1996 (before the effective date of its tariff establishing the QFSS subaccount). However, this additional language is clearly unauthorized. Ordering Paragraph 6 directed PG&E to use the Preliminary Statement language as modified by the decision, not as unilaterally modified by PG&E at a later date. In short, this unauthorized additional language cannot justify PG&E's request to recover the shareholder incentive for QF contracts renegotiated in 1996.

The Commission's Staff did send a letter to PG&E (dated June 17, 1997) stating:

> "We are returning one copy of your approved Advice Letter 1642-E and associated tariff sheets marked effective December 30, 1996, as shown thereon, for your records."

However, the Commission itself never voted to authorize PG&E's departure from the requirements of D. 96-12-077, nor was this authority delegated to staff. Accordingly, we conclude that the Commission staff's "approval" of PG&E's advice letter does not authorize the language that PG&E added to the Preliminary Statement for its QFSS subaccount.[2] Similarly, ORA's failure to protest the unauthorized additional language cannot have the effect of authorizing it.

In sum, PG&E has shown no reason why we should depart from our normal practice of prospective ratemaking, and allow PG&E to book into its QFSS subaccount the shareholder incentive portion of the benefits associated with renegotiated QF contracts signed before the effective date of the QFSS subaccount. Accordingly, we will not authorize PG&E to recover any

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[2] "[I]t is a well-established principle of administrative law that statements of policy, administrative opinions, or interpretations of law and regulations by employees of such an agency cannot be used to preclude the agency from taking whatever action is necessary." (Coast Trucking Co., D.64014, 60 Cal.PUC. 67, 70 (1962).)

shareholder incentives associated with renegotiated QF contracts signed before December 30, 1996.

Comments

The proposed decision (PD) in this matter was filed and mailed to the parties on May 11, 1999.

ORA filed comments supporting the PD as written.

PG&E filed lengthy comments, largely repetitive of its briefs, on the issue of the PD's disallowance of PG&E's claimed incentive awards from restructuring QF power purchase contracts during the 1996 Record period. While these comments are not persuasive of any substantive change in the PD, we review them in amplification of the PD.

PG&E makes two arguments in its comments. First, PG&E argues that the PD erroneously concludes that granting the shareholder incentive for QF contracts renegotiated in 1996 would constitute retroactive ratemaking. The discussion in the PD does not so conclude, but there is a Conclusion of Law to that effect. We will revise the Conclusion of Law, and add several Findings of Fact, to conform to the discussion.

Second, PG&E continues to argue that D. 96-12-077 somehow approved its request to recover the shareholder incentives for QF contracts renegotiated during 1996. In doing so, PG&E directly misstates the holding in D.96-12-077.

As the PD states, D.96-12-007 approved as "complete" the draft Preliminary Statement language that PG&E had submitted for its Qualifying Facilities Shareholders Savings (QFSS) subaccount. The PD further pointed out that the draft Preliminary Statement language that PG&E had submitted made no mention of this subaccount extending back to cover renegotiated QF contracts signed between December 20, 1995 and the effective date of the tariff. The PD

concluded that the additional language which PG&E had included in the tariff it actually filed, in an attempt to achieve this result, was therefore unauthorized.

The language approved by D.96-12-077 is that the QFSS subaccount would track "the shareholder incentive portion of the benefits associated with contract buy-outs, buy downs, or renegotiations of Qualifying Facilities (QF) contracts." The tariff language that PG&E filed on December 30, 1996 stated that the QFSS subaccount would track "the shareholder incentive portion of the benefits associated with contract buy-outs, buy-downs, or renegotiations of Qualifying Facilities (QF) contracts signed on or after December 20, 1995." (Additional, unauthorized language emphasized.)

Even without the unauthorized language setting forth the critical December 20, 1995 date, PG&E again argues that D.96-12-077 somehow "apparently" approved PG&E's contention that the incentive should apply to all renegotiations signed on or after December 20, 1995.

In support of this argument, PG&E notes that it submitted an Advice Letter Draft (at the same time as it submitted its Draft Preliminary Statement). The Advice Letter Draft states that "PG&E believes that this provision [QFSS subaccount] applies to all renegotiations signed on or after December 20, 1995."

PG&E then argues that the Commission "apparently agreed with PG&E's stated belief and included 'power purchase contracts that were collected in rates on December 20, 1995' among the categories of uneconomic costs recoverable under AB 1890," citing D.96-12-077, (PG&E's comments on the PD at p. 5). However, the language in D.96-12-077 that PG&E refers to simply summarizes the provisions of Pub. Util. Code §§ 367 and 368 and states that among the uneconomic costs that utilities may recover under their cost recovery plans are the uneconomic costs of generation-related assets and obligations including power purchase contracts that were collected in rates on December 20, 1995.

PG&E nowhere explains how this general language in the decision or the corresponding language in the Pub. Util. Code, neither of which makes any specific mention of incentives for renegotiating contracts, could possibly show any approval of PG&E's belief that the shareholder incentives for renegotiating contracts should apply to all contracts renegotiated on or after a specific date – December 20, 1995. This general language deals with the definition of uneconomic costs and says nothing about incentives for renegotiating QF contracts. The language in D.96-12-077 that does deal with incentives for renegotiating QF contracts states that PG&E's draft Preliminary Statement for the QFSS subaccount is "complete" and makes no mention of PG&E's Advice Letter Draft and any "belief" stated therein. It is, thus, certain that the Commission never approved the belief statement made in PG&E's Advice Letter Draft.

In sum, there is no basis for PG&E's argument that D.96-12-077 somehow approved its contention that the QFSS subaccount should include all contracts renegotiated on or after December 20, 1995. Accordingly, we confirm the PD's analysis that PG&E included additional, unauthorized language in its Preliminary Statement for its QFSS subaccount when it filed its AL 1642-E on December 30, 1996.

PG&E also makes the argument that our approval of the PD would require other utilities that made compliance filings as ordered by D.96-12-077 to revise their tariffs sheets as if they, like PG&E, had added unauthorized language to their tariffs. PG&E specifically notes that Edison made such a compliance filing. (PG&E Comments at p. 5.) However, Edison tariff's Preliminary Statement for Edison's QF Contract Restructuring Shareholder Incentive Subaccount makes no mention of a December 20, 1995 effective date for that subaccount, and there is no need for Edison to revise its tariffs.

Findings of Fact

1. PG&E and ORA are the only active practices in this proceeding.

2. PG&E agrees with three of the four recommendations made by ORA or specifically:

(a) PG&E agreed that $2.63 million should be disallowed for energy sold off-system during the 1996 Record Period to be consistent with the policy set forth in D.97-08-061, which was issued after PG&E had filed its 1996 Reasonableness Report.

(b) PG&E agreed with ORA's proposed audit adjustments of approximately $83,000, which had actually been discovered and brought to ORA's attention by PG&E after the original filing was made. PG&E has already made these adjustments to its books.

(c) PG&E also agreed with ORA's recommended disallowance of $13.2 million relating to off-system sales for the 1995 Record Period, consistent with the findings of D.97-08-061, which, as noted above, was issued after PG&E had filed its 1996 Reasonableness Report. PG&E and ORA filed a joint motion on November 10, 1997, in the 1995 electric reasonableness proceeding, expressly requiring PG&E to credit the Electric Deferred Refund Account for this $13.2 million disallowance. This motion was granted in D.98-026, thereby closing the 1995 proceeding.

3. The recommended disallowance of applicant's request for a $2.47 million incentive for renegotiation of its QF contracts is the sole contested issue in this proceeding.

4. PG&E requests recovery of $2.47 million representing ten-percent shareholders' incentive from the restructuring of 25 QF contracts prior to December 30, 1996.

5. ORA recommends that the Commission deny applicant's request for shareholder incentive awards during 1996 because the utility was not authorized

to book these expenses into the QFSS until December 30, 1996, the effective date of AL 1642-E.

6. ORA also requests that the Commission order PG&E to resubmit its AL 1642-E to comply with the Commission policy designed to ensure against retroactive ratemaking.

7. PG&E was not authorized to book shareholder incentives for renegotiation of QF contracts into a memorandum account until December 30, 1996, when it filed its tariff establishing its Industry Restructuring Memorandum Account (including the Qualifying Facilities Shareholder Savings subaccount).

8. PG&E's contention that it should be allowed to recover a shareholder incentive for QF contracts renegotiated in 1996 rests on the factually incorrect premise that the Commission approved such recovery in D96-12-077.

9. D.96-12-077 approved PG&E's draft Preliminary Statement language for its Qualifying Facilities Shareholder Savings subaccount as complete. Its draft Preliminary Statement Language did not make any mention of renegotiated contracts "signed on or after December 20, 1995."

10. D.96-12-077 did not approve PG&E's Advice Letter Draft in which PG&E stated its belief that the Qualifying Facility Shareholder Savings subaccount should apply to all renegotiations signed on or after December 20, 1995.

11. PG&E included additional, unauthorized language in its Qualifying Facility Shareholder Savings subaccount Preliminary Statement that it filed on December 30, 1996.

Conclusions of Law

1. Usual Commission practice designed to ensure against retroactive ratemaking provides for the accrual of charges in memorandum accounts only after the date on which the memorandum account is authorized.

2. In this case, a departure from usual Commission practice has not been justified.

3. PG&E's request for shareholder incentives from the restructuring of QF contracts prior to December 30, 1996 should be denied as PG&E's request is based on its filing of tariff language different than that which the Commission had directed it to use.

4. The application should be granted as set forth in the following Order.

O R D E R

IT IS ORDERED that:

1. With the exceptions enumerated in Finding of Fact 2, Pacific Gas and Electric Company's (PG&E) electric operations during calendar year 1996 were prudent.

2. PG&E's request to receive shareholder incentives from the restructuring of qualifying facility contracts prior to December 30, 1996 is denied.

3. Within ten days of the effective date of this order PG&E shall file a revised Advice Letter (AL) and conforming tariffs, which replaces references to December 20, 1995 with December 30, 1996. The revised AL shall be effective as of December 30, 1996, subject to the Energy Division determining that it is compliant with this decision.

4. Application 97-04-001 is closed.

This order is effective today.

Dated June 24, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
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ATTACHMENT

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Last updated on 10-MAY-1999 by: CPL
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