

Decision 99-12-019 December 2, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY (U 39 M), a California corporation, and the CITY OF SONOMA, a California municipal corporation, for an Order Authorizing the Former to Sell and Convey to the Latter a Certain Parcel of Land in Sonoma County Pursuant to Public Utilities Code Section 851.

Application 99-07-015
(Filed July 8, 1999)

OPINION

I. Summary

Pursuant to Section 851 of the Pub. Util. Code and the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), Pacific Gas and Electric Company (PG&E) and the City of Sonoma (Buyer) respectfully request authority for PG&E to sell to Buyer a certain parcel of land located in Sonoma County (the Property), as set forth in the Purchase and Sale Agreement between PG&E and Buyer dated February 8, 1999 (the Agreement). PG&E and Buyer also request that the Commission defer consideration of the ratemaking treatment associated with this sale to Application (A.) 98-11-023, PG&E's Distribution Performance-Based Ratemaking (PBR) proceeding.

The Application was filed on July 8, 1999 and was noticed on the Daily Calendar on July 14, 1999. On August 13, 1999, the Office of Ratepayer Advocates (ORA) filed a response to the application in which it stated that it did not oppose a Commission order granting PG&E authority to sell the Property to the Buyer and that it supports PG&E's recommendation to defer consideration of

the ratemaking treatment associated with this sale to PG&E's PBR proceeding (A.98-11-023). No protests have been received.

II. Applicants

Since October 10, 1905, PG&E has been an operating public utility corporation, organized under the laws of the State of California. PG&E is engaged principally in the business of furnishing gas and electric service in California. Buyer is a California municipal corporation within the County of Sonoma.

III. The Property

The Property consists of approximately 2.97 acres of land located in Sonoma County and is designated as Sonoma County Assessor's Parcel Numbers 18-251-64 and 18-291-33. PG&E acquired a portion of the Property from V. Sangiacomo and wife by deed dated November 27, 1953 (recorded in Book 1249 of Official Records at page 262, Sonoma County Records) and the remainder from Peter M. Duffy and wife by deed dated July 2, 1986 (recorded as Recorder's Serial Number 86058331, Sonoma County Records). The Property was acquired for service center and customer office purposes. In June 1995, PG&E relocated its service center crews to Santa Rosa and Petaluma, but retained the Property for customer service operations. Upon receipt of Commission approval for the sale, PG&E will lease back the customer services office located on the Property until it is able to find a suitable location to relocate that office.

The total original cost of the Property was \$600,844. This breaks down into an original book value of \$246,984 for the land and \$353,860 for the improvements.

IV. Proposed Sale is in the Public Interest

As part of PG&E's ongoing efforts to identify underutilized utility assets, the Property was identified as a candidate for disposition. The Property is served by an underground electric line which runs from the street to a transformer located on the Property. The line then leaves the Property and runs back into the street and serves all properties on the street. PG&E will be reserving rights for the underground electric line. Except as described above, PG&E no longer makes use of the Property. With an adequate easement, it is not foreseeable that the Property will ever again be useful for public utility purposes. Based on this analysis, PG&E determined that it did not need to maintain ownership of the Property in fee, and as a matter of law, the fee interest in the Property could be declared surplus. PG&E also concluded that, by exchanging unused fee interest for easements and by removing the book value of the fee interest from rate base, PG&E would be able to maintain customer service at a reduced cost.

Moreover, PG&E concluded that the easements will actually be more advantageous to PG&E and its ratepayers than continuing to own the Property. In particular, with an easement, PG&E would retain all rights necessary for current maintenance and future operation of the existing facilities, including the right to enter on any part of the Property for maintenance purposes, with none of the obligations attendant to ownership of the Property. Specifically, PG&E would no longer be responsible for the maintenance costs or the payment of property taxes associated with the Property, nor would PG&E be responsible for the liability for injury to trespassers or others who may enter onto the Property.

Buyer wishes to purchase the Property for use as a fire station. Buyer's current fire station has seismic, parking, and underground tank problems, as well as a shortage of space for Buyer's operational needs, and the location and

size of the Property is ideally suited for Buyers' needs. Buyer also plans to use a portion of the Property to construct affordable housing.

V. The Agreement

The terms and conditions of the proposed sale are contained in the Purchase and Sale Agreement between PG&E and Buyer. Under the terms of the Agreement, PG&E will sell and convey to Buyer the Property together with the buildings and other improvements located thereon, all easements, rights, and privileges appurtenant thereto, and all warranties and other agreements related thereto.

The purchase price of the Property is \$1.5 million. The most recent appraisal of the Property indicates an estimated market value of \$1.46 million for commercial use. According to the Agreement, the close of escrow shall occur within thirty (30) days following PG&E's receipt of final approval of the sale from the Commission, but no later than June 30, 2000.

VI. Compliance with PG&E-ORA Agreement

The following information is provided by PG&E pursuant to PG&E's agreement with ORA to include certain information in its Section 851 applications.

A. Table Showing Sales Price, Expenses, Tax Effects

A table showing the sales price, expenses, and tax effects is appended to the application as Exhibit G.

B. Decrease in Rate Base Resulting from the Sale

The Property consists of both depreciable and non-depreciable assets. Exhibit F shows the 1999 revenue requirement associated with the Property. Based on property taxes of \$26,982, annual maintenance costs of approximately \$9,000, depreciation expense of \$9,620, and PG&E's 1999

authorized cost of capital (10.60% on equity; 8.75% on rate base), the 1999 revenue requirement, including taxes, franchise fees and an allowance for uncollectibles, is \$102,356. The cost related to the Property are recovered through base rates as determined in a General Rate Case (GRC).

Because the revenue requirement determined in a GRC is authorized at an aggregate level, it is impossible to specifically identify these costs in a GRC decision. Nevertheless, these costs are presently included in rates since they are embedded in PG&E's adopted rate base and M&O expense estimates. Therefore, in this case, the Property's \$102,356 revenue requirement is included in the GRC revenues ordered by Decision (D.) 95-12-055 (PG&E's 1996 Test Year decision).

C. Explanation of Other Accounting/Ratemaking Features

The gross sales proceeds from this sale are reduced by \$66,000 in disposition costs for the Property, which includes \$45,000 real estate commission, \$15,000 appraisal fee, and \$ \$6,000 land use planning fees.

VII. Ratemaking Treatment

Applicants and ORA request that the Commission defer consideration of the ratemaking treatment for this sale to PG&E's PBR proceeding (A.98-11-023).

This type of deferral was approved in D.99-10-001, October 7, 1999 (A.97-06-002). We will follow this precedent.

VIII. Environmental Matters

The proposed project is a Project pursuant to the California Environmental Quality Act (CEQA), and the Commission will act as a Responsible Agency under CEQA in this proceeding in fulfilling its general obligation to independently review the potential adverse environmental effects of proposed projects seeking authority pursuant to Section 851 of the Pub. Util. Code.

The City of Sonoma (City), acting as the Lead Agency under CEQA, conducted the environmental review of this project. The City initially directed that a Preliminary Initial Study be prepared, pursuant to the CEQA Guidelines, to determine the potential adverse effects of the proposed project. The Preliminary Initial Study was reviewed by the Sonoma Environmental Review Commission, and a recommendation was issued by that body to conduct an Expanded Initial Study to focus on the analyses of particular issues associated with the construction and occupancy of the project. These issues included primarily noise, traffic, archeology, and the amendment of the General Plan land use designation and zoning to accommodate the fire station portion of the project. Because the proposed project site had been occupied by a utility company where there is the possibility of the presence of hazardous materials, the City retained a consultant to prepare an Environmental Site Assessment (ESA) for the site. Both Phase I and Phase II ESAs were prepared for the proposed project site, and the findings and recommendations contained in these Environmental Site Assessments are summarized in the Expanded Initial Study.

The City's Expanded Initial Study was published in final form on August 27, 1999. The final Expanded Initial Study includes the Preliminary Initial Study, Project Data (site plan data and fire station operations information), and a Traffic Study as Appendices A, B, and C, respectively. The City's Expanded Initial Study also includes a Summary of Impacts and Mitigation Measures/Mitigation Monitoring Plan.

On the basis of the findings of the Expanded Initial Study, the City of Sonoma found that the mitigation measures proposed in the Expanded Initial Study would serve to mitigate any potential effects of the proposed project to less-than-significant levels, and a Mitigated Negative Declaration was prepared and issued by the City with the Expanded Initial Study, dated September 15,

1999. On November 22, 1999, the City approved the proposed project, adopted the Mitigated Negative Declaration and Expanded Initial Study, and filed a Notice of Determination with the Office of Planning and Research (OPR). The City made the following determinations with respect to the proposed project: (1) the project will not have a significant effect on the environment; (2) a Negative Declaration was prepared for the project pursuant to the provisions of CEQA; (3) mitigation measures were made a condition of project approval; (4) a Statement of Overriding Considerations was not adopted; and (5) findings were adopted pursuant to the provisions of CEQA. The City of Sonoma also certified that the Negative Declaration, with comments and responses and the record of project review, is available to the general public at the City Hall

The Commission, in its role as a Responsible Agency pursuant to CEQA, has reviewed the Expanded Initial Study and finds, in its independent judgement, that it and the associated Mitigated Negative Declaration prepared by the City of Sonoma are adequate for our decision-making purposes. The Expanded Initial Study and Mitigated Negative Declaration are not provided as an attachment to this decision; they are available from the City of Sonoma at City Hall, No. 1 The Plaza, Sonoma, CA 95476. Further, these documents are hereby incorporated into this decision by reference as if fully set forth, including the mitigation measures specified therein which are made conditions of project approval by the City of Sonoma. The Commission notes that the authority to impose, enforce and monitor compliance with the mitigation measures specified in the Expanded Initial Study -- Mitigation Monitoring Plan lies with the City of Sonoma, which developed the mitigation measures and adopted them as conditions of project approval. Therefore the subject mitigation measures are not only enforceable, but retain a high probability of being enforced.

IX. Service

In D.99-04-015 and D.99-04-022 (Ordering Paragraph 7), the Commission directed PG&E to serve "any future Public Utilities Code Section 851 applications regarding land and/or hydroelectric facilities on local jurisdictions, such as cities, counties, special use districts, and federal and state resource agencies." In compliance with this order, PG&E served this application on the following entities:

City of Sonoma, City Manager

County of Sonoma, Permit and Resource Management Director

California Public Utilities Commission, Office of Ratepayer Advocates

California Public Utilities Commission, Energy Division

California Resources Agency

California Environmental Protection Agency

United States Environmental Protection Agency

United States Department of the Interior

X. Public Review

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

Findings of Fact

1. PG&E and the City of Sonoma request authority, pursuant to Pub. Util. Code § 851 for PG&E to sell and transfer a 2.97 acre parcel of land located in the City of Sonoma to the City of Sonoma.

2. The land is no longer required for utility purposes except for an underground electric line serving the property.

3. The proposed sale agreement reserves an easement for the underground line to PG&E.

4. ORA recommends approval of the application as being in the public interest subject to the Order of approval specifically requiring that PG&E's shareholders bear any costs associated with any expansion of the easement that are not recoverable under applicable tariffs.

5. Applicants and ORA recommend that consideration of the ratemaking issues presented in this proceeding be deferred to PG&E's PBR proceeding (A.98-11-023) as was ordered in D.99-10-001.

6. The proposed project, in its entirety, has the potential for direct or indirect physical changes to the environment, which are reasonably foreseeable.

7. The Expanded Initial Study and Mitigated Negative Declaration prepared by the City of Sonoma for this proposed project was prepared pursuant to the California Environmental Quality Act and the CEQA Guidelines.

8. The Expanded Initial Study and Mitigated Negative Declaration prepared by the City of Sonoma for this proposed project was independently reviewed by this Commission.

Conclusions of Law

1. A public hearing is not necessary.
2. The proposed sale as set forth in the application should be approved.
3. The Expanded Initial Study and Mitigated Negative Declaration prepared by the City of Sonoma is adequate for the Commission's decision-making purposes and represents the Commission's independent judgment.

O R D E R

IT IS ORDERED that:

1. Within six months after the effective date of this order, Pacific Gas and Electric Company (PG&E) may sell to the City of Sonoma the property set forth in Application (A.) 99-07-015, in accordance with the Purchase and Sale Agreement attached to the application.

2. Within 10 days of the actual transfer, PG&E shall notify the Directors of both the Energy Division and the Office of Ratepayer Advocates in writing of the date of which the transfer was consummated. A true copy of the instrument effecting the sale and transfer shall be attached to the written notification.

3. Upon completion of the sale and transfer authorized by this Commission order, PG&E shall stand relieved of public utility responsibilities for the property.

4. Approval of the sale is conditioned upon PG&E's shareholders bearing any costs associated with the expansion of PG&E's reserved easement in the property that are not recoverable under applicable tariffs.

5. Consideration of the ratemaking issues presented in this proceeding is deferred to PG&E's ongoing performance-based ratemaking proceeding A.98-11-023 as was ordered in Decision 99-10-001.

6. The mitigation measures specified in the Expanded Initial Study -- Mitigation Monitoring Plan are made conditions of project approval.

7. The Expanded Initial Study and Mitigated Negative Declaration prepared by the City of Sonoma for this proposed project is adopted by this Commission.

8. A.99-07-015 is closed.

This order is effective 30 days from today.

Dated December 2, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners