

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

Application of Pacific Gas and Electric
Company (U 39 E) for Commission
Approval under Public Utilities Code
Section 851 of a Restated License
Agreement with IP Networks, Inc. and
Level 3 Communications, LLC

Application No. 13-01-____
(filed January 2, 2013)

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
FOR LEAVE TO FILE UNDER SEAL
PORTIONS OF THE AGREEMENT BETWEEN PG&E AND IP NETWORKS**

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Dated: January 2, 2013

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

Application of Pacific Gas and Electric Company (U 39 E) for Commission Approval under Public Utilities Code Section 851 of a Restated License Agreement with IP Networks, Inc. and Level 3 Communications, LLC

Application No. 13-01-____
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**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
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Pursuant to Commission Rule 11.4, Public Utilities Code Section 583, and General Order 66-C, Pacific Gas and Electric Company respectfully moves for leave to file under seal portions of the Amended and Restated Master License and IRU Agreement (the “Restated License Agreement”) between PG&E and IP Networks, appended as Attachment A to the Application filed in the above-referenced docket. A proposed ruling is appended hereto as Appendix 1.

I. RELIEF REQUESTED

Concurrently with the filing of this Motion, PG&E is filing an Application seeking Commission approval under Public Utilities Section 851 of the Restated License Agreement with IP Networks (IPN). Pursuant to Rule 3.6, PG&E is required to append a copy of the Agreement for which it seeks Section 851 approval. The Agreements contain the fee arrangement and other information that is highly confidential and commercially sensitive for PG&E and IPN, and that PG&E seeks to protect from public disclosure pursuant to Public Utilities Code Section 583 and General Order 66-C.

PG&E and IPN do not seek to keep the entire Agreement under seal, but only the portions with fee or other information that would give competing communications providers information about the economic and financial benefits which PG&E and IPN have negotiated

with each other. Release of such information to the public would greatly damage PG&E and IPN by revealing not only the price terms but also other strategic information and assumptions.

PG&E and IPN sought authority to file similar information under seal in Application 01-12-033, which sought Section 851 approval for two previous agreements. The Administrative Law Judge in that proceeding granted the motion by written ruling dated February 5, 2002, based on the following reasoning:

Commission decisions on confidentiality reflect an attempt to balance the market's need for information against a utility or third party's need for confidentiality in its business operations and strategy. In applying this balancing test, the Commission has consistently upheld the need for confidentiality in cases involving fiber optical lease agreements between competitive communications companies and electric utilities. (*See, e.g.*, Application 99-09-036, ALJ Ruling issued November 16, 1999.)

The same rationale and conclusion should apply in the instant proceeding.

II. CONCLUSION

WHEREFORE, for the foregoing reasons, PG&E respectfully requests that the Assigned Administrative Judge in this proceeding grant this Motion to file the referenced information under seal. Pursuant to Rule 11.4(a), PG&E has appended a proposed ruling that would grant the relief requested.

Respectfully Submitted,

By: _____ /s/
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SAMPLE RULING

**BEFORE THE PUBLIC UTILITIES COMMISSION
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Application of Pacific Gas and Electric Company (U 39 E) for Commission Approval under Public Utilities Code Section 851 of a Restated License Agreement with IP Networks, Inc. and Level 3 Communications, LLC

Application 13-01-_____
(Filed January 2, 2013)

**ALJ RULING GRANTING MOTION
OF PACIFIC GAS AND ELECTRIC COMPANY
FOR LEAVE TO FILE UNDER SEAL
PORTIONS OF THE AGREEMENT BETWEEN PG&E
AND IP NETWORKS
[DRAFT]**

On January 2, 2013, Pacific Gas and Electric Company (PG&E) filed a motion for leave to file certain portions of its Agreement with IP Networks under seal. This Ruling grants the relief requested.

I. INTRODUCTION

On January 2, 2013, PG&E filed an Application seeking Commission approval under Public Utilities Section 851 of the Restated License Agreement with IP Networks (IPN). Pursuant to Rule 3.6, PG&E is required to append a copy of the Agreement for which it seeks Section 851 approval. The Agreement contains the fee arrangement and other information that PG&E claims as highly confidential and commercially sensitive for PG&E and IPN.

PG&E and IPN do not seek to keep the entire Agreement under seal, but only the portions with fee or other information that would give competing communications providers information about the economic and financial benefits which PG&E and IPN have negotiated with each other. PG&E claims that release of such information to the public would greatly damage PG&E and IPN by revealing not only the price terms but also other strategic information and assumptions.

PG&E points out that PG&E and IPN sought authority to file similar information under seal in Application 01-12-033, which sought Section 851 approval for two previous agreements. The Administrative Law Judge in that proceeding granted the motion by written ruling dated February 5, 2002, based on the following reasoning:

Commission decisions on confidentiality reflect an attempt to balance the market's need for information against a utility or third party's need for confidentiality in its business operations and strategy. In applying this balancing test, the Commission has consistently upheld the need for confidentiality in cases involving fiber optical lease agreements between competitive communications companies and electric utilities. (*See, e.g.*, Application 99-09-036, ALJ Ruling issued November 16, 1999.)

PG&E argues that the same rationale and conclusion should apply in the instant proceeding. The Commission agrees with PG&E's analysis.

[No party opposed PG&E's request for confidential treatment.] Therefore, PG&E's request that the referenced information be filed under seal pursuant to Public Utilities Code Section 583 and General Order 66-C is hereby granted.

[Signature of Assigned ALJ]

**CERTIFICATE OF SERVICE
BY ELECTRONIC MAIL, U.S. MAIL, AND COURIER**

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 2nd day of January, 2013, I caused to be served a true copy of:

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
FOR LEAVE TO FILE UNDER SEAL
PORTIONS OF THE AGREEMENT BETWEEN PG&E AND IP NETWORK**

- [XX] By Electronic Mail – serving the above via e-mail transmission to each of the parties listed on the official service list for A.01-12-033 with an e-mail address.
- [XX] By U.S. Mail – placing the above for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for A.01-12-033 without an e-mail address.
- [XX] By Courier – serving the above document, via courier, to the following:
- Karen Clopton
Chief Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 2nd day of January, 2013, at San Francisco, California.

/s/
Rene Anita Thomas

***** SERVICE LIST *****

Last Updated on 02-JAN-2013 by: JVG
A0112033 NOPOST

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**Last Updated on 02-JAN-2013 by: JVG
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