

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
to Market Value Hydroelectric Generating Plants
and Related Assets Pursuant to Public Utilities
Code Sections 367(b) and 851.

Application 99-09-053
(Filed September 30, 1999)

(U 39 E)

**JOINT RULING OF THE ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE REGARDING
FIRST PREHEARING CONFERENCE**

In this ruling, we schedule a prehearing conference for November 16, 1999. The purpose of the prehearing conference is to address the category of the proceeding, the scope of issues to be addressed in the proceeding, the schedule for resolving the issues identified, and to determine the parties to the proceeding.

PG&E's Request

Pacific Gas and Electric Company (PG&E) filed this application to request authority to market value and divest its hydroelectric generating facilities and related assets through what it characterizes as an open, competitive auction. The facilities PG&E proposes to auction include 68 powerhouses, 110 generating units totaling a normal operating capacity of 3,890.1 MW, close to 2.3 million acre feet of reservoir capacity, and certain land and water rights associated with the powerhouses. These facilities stretch from the Pit River, at the northeastern extreme, to the Kern River, marking the southernmost reach.

PG&E asks the Commission to process the application in two phases. In the first phase, PG&E asks the Commission to approve the proposed auction process; approve proposed contracts which state the terms and conditions of the sale, the operating and maintenance obligations, and various service agreements; and approve the proposed accounting and ratemaking treatment for the proceeds of the sale. It also asks that the Commission determine that the fair market value for the generating facilities and related assets will be the proceeds from the sale, thereby fulfilling the requirements of Public Utilities (Pub. Util.) Code § 367(b); that the proposed Operations and Maintenance Agreement is reasonable; and that for any generating facility the Independent System Operator designates as must-run for reliability, having the purchaser accept an assignment of PG&E's must-run for reliability contract will satisfy the requirement in Pub. Util. Code § 362 that facilities needed to maintain the reliability of the electric supply remain available and operational.

In the second phase, PG&E proposes to file a compliance filing that will include a demonstration that the auction process approved in the first phase was followed, along with the final contracts, and information concerning the accounting and ratemaking adjustments for the transactions. PG&E asks the Commission to then issue a final decision. PG&E asks that, in this decision, the Commission approve the terms and price of each transaction; approve PG&E's accounting and ratemaking adjustments, based on the method approved in the first phase given the actual proceeds and terms of the transactions; and make the findings required by § 32(c) of the Public Utility Holding Company Act of 1935 for the hydroelectric facilities to obtain exempt wholesale generator status.

Background

With the restructuring of the electric supply market, the Commission and the Legislature determined that competition in the supply of electricity best

serves the interests of electricity customers and the state as a whole. The Commission and the Legislature recognized that with competition in the electric supply market, the costs investor-owned utilities like PG&E incurred on behalf of ratepayers may not be recoverable. The Commission and the Legislature have provided means for investor-owned utilities to recover reasonable costs associated with generation-related assets that may not be recoverable in the market prices for electricity that prevail in a competitive generation market. The Commission defined these “uneconomic costs” or “transition costs” as the net above-market costs associated with uneconomic generation assets. Uneconomic assets are those assets whose net book value exceeds their market value. We established that each utility’s net above-market costs would be determined after offsetting the benefits associated with economic assets against the excess costs of uneconomic assets. (Preferred Policy Decision ((D.) 95-12-065, as modified by D.96-01-009), mimeo., at 116.)

Under Pub. Util. Code § 368, rates for electricity have been frozen at June 10, 1996, levels. The duration of this rate freeze is linked to transition cost recovery. That is, the rate freeze will end on the earlier of March 31, 2002, or the date generation-related uneconomic costs have been recovered.

To determine the transition costs, and in fulfillment of Pub. Util. Code § 367, the Commission has required investor-owned utilities like PG&E to subject their generation-related assets to some form of market valuation. We understand PG&E’s proposal is intended to meet the requirement that its hydroelectric generating facilities be subjected to some form of market valuation before the end of 2001. (See Pub. Util. Code § 367 and D.97-11-064.)

We expect PG&E’s hydroelectric generating facilities market value to exceed the net book value. It is this market valuation that will be applied to PG&E’s outstanding transition costs (recorded in the Transition Cost Balancing

Account) to determine the outstanding balance that is subject to recovery from ratepayers. Once this balance is fully recovered by PG&E, PG&E's rate freeze will end. It is largely anticipated that rates will fall at the end of the freeze, so there is considerable time pressure to complete the valuation process.

Prehearing Conference

We will hold a prehearing conference at 10:00 a.m., on November 16, 1999, in the Commission Courtrooms. The purpose of the prehearing conference is to address the category of the proceeding, the scope of issues to be addressed in the proceeding, the schedule for resolving the issues identified, and to determine the parties to the proceeding. After the prehearing conference, we will issue a ruling determining the category of the proceeding, and the scope and schedule. The prehearing conference is being held pursuant to the Commission's Rules of Practice and Procedure, Rule 6.2. No prehearing conference statements will be accepted for filing.

Rule 6(a)(1) requires applicants like PG&E to include in its application its proposed category, the need for hearing, the issues to be considered, and a proposed schedule. Rule 6(a) (2) requires any person protesting or responding to an application to include comments or objections to the applicant's statements. In its application, PG&E did not state its view on the need for hearing and it did not provide a proposed schedule. On October 26, 1999, Administrative Law Judge Hale directed PG&E by telephone to file and serve the information required as soon as possible, recognizing that protestants or parties filing responses to the application are required by Rule 6(a)(2) to state their views on PG&E's proposals. Any person protesting or responding to PG&E's application should include comments or objections to PG&E's proposed category, need for hearing, scope of issues, and proposed schedule as described in PG&E's application and filing in compliance with Rule 6(a)(1).

Category As required by statute and our Rules, this proceeding was preliminarily categorized as “ratesetting.” (See Pub. Util. Code §§ 1701.1(c)(3) and Rules 5(c) and 6.1.) PG&E proposed that the proceeding be categorized as ratesetting. At the prehearing conference, parties will be given an opportunity to state their support for this or a different categorization, given the views stated in the application, any protests, and any responses.

Scope and Schedule PG&E’s application describes a scope of issues to be addressed and resolved by the Commission. Parties should come to the prehearing conference prepared to discuss the scope of issues, and to identify areas of disagreement with the scope contained in PG&E’s application, or in any protests or responses.

As described above, PG&E’s application proposes that the Commission review this application in two phases, with an opinion following each phase. PG&E’s filing in compliance with Rule 6(a)(1) includes a specific proposed schedule for processing its application.

The schedule ultimately set will be consistent with Section 13 of Senate Bill 960 (Ch. 96-0856), where the Legislature urges the Commission to complete applications such as this within 18 months of their filing. Parties should take note that any schedules they propose should meet this timeline.

Given the potential benefit to ratepayers that ending the rate freeze may hold, we are interested in resolving this proceeding expeditiously. However, we must balance this interest with our responsibility to California residents to meet our statutory responsibilities, both for careful, open, and deliberative review of the application and alternatives presented by protestants, and for environmental review as the “lead agency” under the California Environmental Quality Act. Achieving a resolution to this proceeding that does justice to competing interests in lowering electric rates, increasing competition in the supply of electricity,

ensuring reliability of electric supply, recognizing water rights, and environmental stewardship (to name just a few of the competing interests), will take time. If we could separate the schedule for this proceeding from the timing of the end of PG&E's rate freeze in a manner that does not delay ending the rate freeze, we may be better prepared to address the myriad other interests this application presents.

We are interested in hearing from parties at the prehearing conference whether the Commission should establish a ratemaking approach that will value PG&E's hydroelectric generating assets, solely for ratemaking purposes, and to ensure PG&E's recovery of uneconomic costs in the near term. This may allow the rate freeze to end. Then after conclusion of this proceeding, we would adjust for any differences between the value prescribed to the assets for ratemaking purposes and the valuation that results from this proceeding.

Party/Non-party Status At the prehearing conference, attendees will be invited to identify themselves and state whether they wish to participate in the proceeding as a party or as a non-party. Attendees who wish to participate as a party must enter an appearance, stating on whose behalf the appearance is entered, their interest in the proceeding, and whether they support or oppose PG&E's application. Appearances receive exhibits, testimony, and all formally filed documents, and are obligated to serve their pleadings on all other parties. Appearances are encouraged to include an electronic address for expeditious distribution of documents.

Attendees who wish to receive notices of hearings and any rulings, proposed decisions, and decisions issued in the proceeding, but do not wish to become a party to the proceeding may indicate that they wish to be included on the service (or mailing) list as "information only."

Transcripts Parties desiring an expedited or daily transcript of the prehearing conference should advise the Chief Hearing Reporter by telephone at (415) 703-2288, no later than three days prior to the prehearing conference.

Assistance with Participation

Effective participation in any Commission proceeding requires some understanding of the Commission's Rules of Practice and Procedure, and the laws relevant to the proceeding that are contained in the Public Utilities Code. Interested parties may find these two documents, and our "Guide for PUC Intervenors" on our webpage, www.cpuc.ca.gov. Click on "General and Consumer Information" to find these documents, and other contact information. Our Public Advisor's Office is available to help interested parties understand how to participate in a proceeding, how to file a pleading, and answer other questions about Commission procedure. The northern California office can be reached at 415-703-2074 or public.advisor@cpuc.ca.gov.

Therefore, **IT IS RULED** that a prehearing conference in this matter will be held at 10:00 a.m., on November 16, 1999, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue (between McAllister Avenue and Golden Gate Avenue), San Francisco, California. No prehearing conference statements will be accepted for filing.

Dated November 3, 1999, at San Francisco, California.

/s/ Joel Hyatt
Joel Z. Hyatt
Assigned Commissioner

/s/ Barbara Hale
Barbara Hale
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Joint Ruling of the Assigned Commissioner and Administrative Law Judge Regarding First Prehearing Conference on all parties of record in this proceeding and Application (A.) 98-05-014 /A.98-05-022 or their attorneys of record.

Dated November 3, 1999, at San Francisco, California.

/s/Rita Jayin
Rita Jayin

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.