

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND  
COMPLIANCE DIVISION

RESOLUTION E-3404  
August 11, 1995

Energy Branch

R E S O L U T I O N

RESOLUTION E-3404. PACIFIC GAS AND ELECTRIC COMPANY  
SUBMITS FOR APPROVAL A ONE-YEAR SUBSTATION MAINTENANCE  
SERVICE MARKET TEST.

BY ADVICE LETTER 1485-E, FILED ON OCTOBER 31, 1994.

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SUMMARY

1. Pacific Gas and Electric Company (PG&E) requests authorization to conduct a one-year pilot program as a market test for a **new** service called Substation Maintenance.
2. The proposed service would be offered to customers who own a substation and receive service at transmission voltage levels [in excess of 50 kV].
3. Several electrical contractor companies, a trade association, and the Division of Ratepayer Advocates protested the advice letter on procedural grounds because of allegedly inadequate notice as well as their concern over anticipated anti-competitive practices, potentially excessive requirements for oversight on the part of the Commission, and questions of factual accuracy of the utility's preliminary market survey.
4. This resolution resolves the protests and authorizes the utility to start the pilot project subject to changes and additions of appropriate safeguards consistent with Commission policy on competitive services.

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**BACKGROUND**

1. The Commission has discussed utilities' pursuing new business opportunities to increase their revenues. In Southern California Gas Company Application 92-11-017, Decision 93-12-043, p.39, mimeo, the applicant utility was encouraged to seek new sources of revenue so long as the effort is consistent with established regulatory policy. The Commission's expectation was that these revenues would help offset any revenue shortfalls that utilities might experience because of inflation. In Decision 94-08-088, p.42, mimeo, the Commission encouraged SoCalGas to charge to stockholders those competitive services that would tend to build non-core gas throughput. In Resolution E-3337, dated October 6, 1993, the Commission approved Southern California Edison Company's proposal to offer energy efficiency and management services on a for-profit basis in competition with energy service companies not affiliated with utilities.

2. In this request PG&E is seeking authorization to provide, initially on an experimental basis, substation maintenance service to customers who own their own substations. There are approximately 150 customers who receive their service at the transmission level (i.e., at voltages over 50 kV) and own their own substations. The substation maintenance service is not a monopoly service and the utility is not under obligation to provide it. There are a number of electrical contractors in PG&E's service territory who can and may be interested in performing this service. The customers will have the option to contract for this service with the utility in addition to having it done by its competitors, or by their own personnel.

3. PG&E has received requests for substation maintenance service and noticed interest among customers for high voltage electrical maintenance services. To assess the extent of customer interest, PG&E surveyed its field sales staff and found that most transmission voltage level customers are interested in this type of service from PG&E.

4. Initially, PG&E requests authorization to conduct a one-year market test for the new service of Substation Maintenance. After a year of testing the market, PG&E proposes to decide whether to request authority to continue the service on a permanent basis. PG&E hopes to capture about 100, or two-thirds, of those customers if it should decide to stay in the market permanently.

5. PG&E proposes to carry out this service through its regulated operations rather than through an unregulated subsidiary. PG&E states that this business is not large enough to be attractive to its subsidiaries. PG&E argues that the substation owners and ratepayers can be best served if the operation is carried out by using the resources of the regulated part of the company. Substation owners will receive the benefit of PG&E's experienced crews while the ratepayers will have a somewhat greater stability of electric rates because the markup over the fully allocated costs billed to substation owners can help maintain the current electric rate freeze.

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6. PG&E conducted market research by interviewing potential customers and an out-of-state utility that offers similar services to assess customer demand for substation maintenance. The conclusions of PG&E's survey are:

- o At present there are about 150 transmission voltage level customers eligible for this service. PG&E estimates that up to 100 customers can be expected to use its services.
- o Customers usually do not have in-house expertise to perform substation maintenance.
- o Most customers do not perform maintenance work on their substations themselves but hire outside contractors for this purpose.
- o Some customers have difficulty finding providers of station maintenance service.
- o Most providers of electrical contractor services are reluctant to work on equipment connected to voltages 12 kV or higher, or equipment that they did not install themselves.
- o Potential customers for the station maintenance service would welcome PG&E's entry into this market because the substations they have were originally constructed and maintained by PG&E.

7. PG&E states that the proposed services will not interfere with regular PG&E maintenance work because it will likely be carried out after work hours, on holidays, and weekends. If during the test period the demand for the service exceeds PG&E's available resources, PG&E proposes to take steps to limit substation maintenance service commitments or use subcontractors to meet this demand.

8. To receive the service, a customer would have to sign a maintenance agreement (Standard Form 79-800). Three levels of service (Basic, Plus, Premium) are planned, depending on the complexity of required tasks. PG&E claims that it has the resources, experience, and capability to provide the service.

9. PG&E proposes to base charges for the service on its standard cost estimating procedures approved by the Commission (PG&E's Standard Practice #117.1-1 Accounts Receivable, Billing Other Parties; and Capital Accounting Instruction #7, Appendix C) which it characterizes as fair, genuinely competitive, and precluding cross-subsidies. These charges include direct costs (labor, vehicles, tools, materials) and overhead costs. The bill will include a fixed percentage markup over the costs.

10. PG&E intends to recover the costs of the service through the revenues collected from the customers who contract for the service. Revenues exceeding the cost of providing the service

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will be applied towards maintaining PG&E's present electric rate freeze.

11. PG&E intends to stand behind its services. If work performed by PG&E results in damage to the customers' equipment or plant, PG&E will repair the damage. The cost to repair such damages will not be borne by PG&E ratepayers.

12. The objectives of the one-year market test are:

- o Meet existing customer demand for service.
- o Educate customers who take their energy service at the transmission level on the importance of substation maintenance and generate increased demand for the service.
- o Collect market data that will allow evaluation of the quality and effectiveness substation maintenance service to customers.
- o Obtain experience in utilizing existing company resources that require no additional ratepayer funding.

PG&E proposes to evaluate the effectiveness of the service throughout the market test period to assess customer satisfaction and to track costs and revenues.

#### **NOTICE**

1. PG&E served notice of AL 1485-E by mailing copies to other utilities, government agencies, and all parties that requested such information. Copies of the Advice Letter, however, were initially not provided to certain electrical contractor service companies and associations, for example ETI, nor to the Electrical Contractors Association of California, who were interested and could reasonably expect to receive them. Advice letter 1485-E was noticed in the Commission Calendar.

#### **PROTESTS**

1. CACD received protests by the Division of Ratepayer Advocates (DRA), Electro Test, Inc. (ETI), Power Systems Testing Co. (PST), Rosendin Electric, Inc. (REI), Electrical Contractors Association of California (ECAC), and International Electrical Testing Association (IETA). The protests covered the following six issues:

- a. The existence of substation maintenance firms other than PG&E
- b. DRA's policy considerations
- c. Anticompetitive nature of the proposed activity

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- d. Dispute on PG&E's market research conclusions
- e. Linking of energy service with maintenance service
- f. Inadequate notice.

2. The basis of all protests is that the maintenance service market is competitive and therefore unsuitable for a regulated utility. The competitors are concerned that PG&E will have an unfair competitive advantage in providing substation maintenance service because it is currently the energy supplier for prospective clients. The protestants contend that PG&E's entry into a competitive market is unfair because there is the potential for cross-subsidization by ratepayer funds to cover costs that should be charged to the end-user customer. It is also claimed that PG&E has access to information on particular needs of substation owners that, if not divulged to all competitors, would give PG&E an unfair advantage.

3. DRA opposes AL 1485-E on policy grounds. It contends that the public will be ill-served by permitting a regulated monopoly to participate in competitive markets and that such activities are better left to unregulated enterprises. DRA also shows concern that PG&E's entry into a competitive market poses the risk that PG&E will cross-subsidize its competitive venture to the detriment of ratepayers and third parties. Finally, DRA opposes PG&E's request to enter the competitive market because of the additional regulatory burden it will impose on the Commission staff.

4. The protestants further complain that PG&E did not give them due notice and only by accident did they receive PG&E's advice letter. They are concerned that PG&E's advice letter filing list excluded some service organizations that are affected by the advice letter to preclude them from expressing their views in a timely manner.

5. The protestants also disagree with PG&E's statement that customers are not maintaining their substations or are having difficulty in finding service companies to maintain them or that those electrical contractors are reluctant to work on systems with voltage greater than 12 kV.

6. PG&E responded on December 2, 1994 to the unfair competition charge. PG&E states that a regulated utility can function as a competitor in a competitive market without having an unfair advantage over its competitors.

7. PG&E maintains that it can provide self-supporting products and services, not subsidized by ratepayers, with its cost and revenue accounting. PG&E states that the proposed substation maintenance service best serves the customers through its regulated part because it already has the established and necessary accounting and tracking methods. PG&E reiterates that the proposed service is designed to be self-supporting, fair market valued, and competitive.

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8. The service will be provided to participants who request it at a price sufficient to cover PG&E's direct costs, a full allocation of corporate overhead costs and a reasonable return. The revenues collected in excess of the service costs will help maintain PG&E's electric rate freeze. PG&E gives assurance to keep track of all revenues and costs of the service so as to ensure that the recipients of the substation maintenance service pay for the full costs of the service.

9. PG&E agrees with DRA that periodic monitoring by the Commission is needed to assure that the service is self-supporting.

10. Concerning the protestants' questioning of PG&E's conclusions derived from its market research, the utility concedes that the results of the study are only an indication of the estimated market needs and, as such, not definitive. PG&E believes that more research will add little to what has already been found and better information can be obtained by implementing the proposed one-year market test.

11. PG&E denies that it may crowd competitors out of the proposed service market because its market research shows that there is ample room for new entrants into this market. Because this is a cost-based service, the market will ultimately decide what value to attach to each supplier's service.

12. Concerning the contention that PG&E has a competitive advantage in providing the service because it provides energy to the clients, PG&E points out that that it is prohibited by law (Clayton Act and Sherman Act) to link utility energy service with preferential treatment in providing other kinds of services, such as substation maintenance, and that it will fully comply with all applicable laws. PG&E must compete for customers' substation maintenance orders just like any other electrical contractor.

13. With respect to notice, PG&E maintains that its advice letter service list contains many special interest groups and that it is the responsibility of the interested party to maintain its position on this list with PG&E. On October 18, 1994, two weeks prior to the filing of AL 1485-E, PG&E presented its plan for the one-year test of substation maintenance service to the National Electrical Contractors Association (NECA), which represents a majority of the electrical contracting industry within PG&E's service territory. NECA distributed the minutes of the meeting, which included an overview of PG&E's proposal, to all its members and associate members on October 27, 1994. PG&E believes it met and exceeded the notice requirements set forth in Section III.G of General Order 96-A.

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## DISCUSSION

### Issues Raised by Protesting Parties

a. The existence of substation maintenance firms other than PG&E.

1. PG&E states that its market research indicates there are other providers of maintenance, inspection, and testing service -- both locally and nationwide. PG&E's study also indicates that the customers report difficulty in finding contractors willing to do this type of work because they are reluctant to work on equipment at 12 kV or higher which they did not install.

2. The protestants dispute PG&E's claim that customers find it difficult to find contractors who would provide this service. IETA and ECAC claim that several hundred of their member contractors are routinely engaged in substation start-up, commissioning, maintenance, and troubleshooting for a variety of high voltage customers.

3. ECAC represented to CACD that about 10 member contractors in the PG&E service area could perform the maintenance work. IETA also has 10 members in California that can readily service the 150 substation owner-customers in PG&E's franchise area. CACD concludes that there are enough contracting firms, as has been pointed out by protestants, that are experienced and capable to perform total maintenance testing service on high voltage systems in this area.

b. DRA's Policy Considerations.

4. DRA protests AL 1485-E on the policy ground that the public would be ill-served by permitting a regulated monopoly to participate in competitive markets. Such activities, according to DRA, are better left to unregulated "PG&E Enterprises" affiliates. DRA considers the existence of 100 customers for this service to be an indication of a market that is competitive in nature.

5. PG&E responds that this business is not large enough to be attractive to its subsidiaries. According to PG&E, the substation owners and ratepayers can best be served if the operation is carried out by using the resources of the regulated part of the company. Substation owners will receive the benefit of PG&E's experienced crews while the ratepayers will have a somewhat greater stability in electric rates, because the revenues from the service will help maintain the present electric rate freeze.

6. CACD rejects DRA's protest on three grounds. First, CACD is aware of no laws prohibiting a regulated monopoly firm to enter competitive markets. Second, the number of customers, with the exception of a single buyer [monopsony], is not the

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determinant of whether the market is competitive or not. The number of suppliers of the service, ease of entry into and exit from the service market, degree of homogeneity of services traded, and degree of influence over the price of service should also be considered in evaluating whether the market is competitive and to what degree. Third, it is the CACD view that a competitive energy marketplace has the potential to provide customers with the best energy related services at competitive prices. CACD believes that a regulated utility may be able to function in a competitive market, as is the case in telecommunications industry where, for instance, telephone companies provide competitive services such as voice mail.

7. It is also DRA's concern that PG&E's unfair advantage could include the possibility of subsidizing the non-utility business with funds from its regulated utility business. Fair competition cannot take place where one of the competitors is able to recover a portion of its costs from monopoly customers.

8. Cross subsidization, in the proposed service market, will not take place. PG&E's system of accounting, tracking, and controls are set in such a way as to prevent cross-subsidization. For example, the program costs will be paid directly by the customers of the service under an agreement (Standard Form 79-800) specifying a fully allocated cost plus a fixed percentage.

9. DRA is additionally concerned that because there is a possibility of cross-subsidization, the Commission will have to oversee and check the pilot program. Should complaints be made to the Commission about the utility's conduct, additional staff resources would be required to investigate and resolve the controversy. CACD understands DRA's concerns. CACD is of the opinion that this is a conditional one-year pilot program that has market demand and that PG&E has vested interest in keeping these substations on-line to continue producing revenues. Sufficient controls will be placed on the program so that it will be conducted in full compliance with all applicable laws and Commission orders.

c. Anti-competitive nature of the proposed activity.

10. PG&E's statement that about two-thirds of the customers may subscribe to its service is a concern for its competitors. Any company with this large amount of the market share may have market power.

11. Protestants contend that PG&E will not be a fair competitor in the service area because it has the advantage of a recognizable name, ready access to prospective customers, and efficiencies of scale and scope which the competitors do not possess.

12. CACD maintains that this concern of the protestants could be valid. CACD, however, is of the opinion that we can find out



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more about the degree and severity of the problem after the one-year experimental program is over.

d. Dispute on PG&E's market research conclusions.

13. CACD considers PG&E's conclusions based on its market research tentative. PG&E did not come up with definite findings about the the market at this early stage with the limited scope and size of the survey it conducted. A further study, prior to the implementation of the program, as requested by the protestants, would add little to what has already been completed because the study was done in the absence of engagement in the service operations. There are uncertainties about the service; for instance, PG&E's capabilities in that area, profitability of the program, extent of risk associated with the business, etc., that cannot be resolved until the pilot program is actually carried out. It is expected that more about the substation maintenance service market can be learned by implementing the one-year test, at the completion of which there should be enough data accumulated to allow a better assessment of the proposed program.

e. Linking of energy service with maintenance service.

14. This concern is disposed of as in section c above.

f. Inadequate notice.

15. A utility is considered to be in compliance with the notice requirements of the General Order 96-A so long as a reasonable effort is made to include the potentially interested and affected parties in the advice letter distribution list. PG&E presented its plan for the one-year test of substation maintenance service to the NECA, which represents a majority of the electrical contracting industry within PG&E's franchise area. In addition, PG&E mailed the advice letter to more than 350 individuals and firms in the electric industry in its service area who might be interested in the matter. CACD, accordingly, considers that adequate notice was provided.

Objectives of the Pilot Project

16. No one protested the utility's stated objectives for the market test. CACD has reviewed the objectives and finds them desirable and useful for further evaluation of the proposed service and to determine whether it should be continued after the conclusion of the test period.

Other Conditions

17. It is recommended that CACD monitor the market test program and evaluate whether it is self-supporting. Should relatively

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frequent negative responses to the service occur or the additional market test information indicate against the continuation of the program, CACD recommends that the Commission exercise its authority to suspend or terminate the project.

18. CACD further recommends that during the test period PG&E operate its substation maintenance service test in a manner that is competitive and free from monopoly dominance by enabling the customers to make informed choices by letting them know, for example through bill inserts or otherwise, that other firms also provide such services, and making it clear to its substation clients that the test period ends within a year.

19. CACD also recommends that repair costs for any damages that might be caused by the working of PG&E personnel on the customers' equipment, as well as any losses from uncollectible service bills and any service related liability, be borne by PG&E shareholders.

### The Service Agreement

20. Paragraph 6 of the Service Agreement (Form 79-800) provides for customer payment for services rendered. As stated by PG&E, the pricing of services will be according to PG&E's Standard Practice #117.1-1, a method and format approved by the Commission that is currently used to bill customers for work performed at their request.

21. PG&E has had three other such Agreements approved by the Commission in prior years as follows:

- o Standard Form 62-4527 -- Agreement to Perform Tariff Schedule Related to Work -- effective April 2, 1991.
- o Standard Form 79-280 -- Agreement for Installation or Allocation of Special Facilities for Parallel Operation of Nonutility-Owned Generation -- effective March 25, 1991.
- o Standard Form 79-255 -- Agreement for Installation or Allocation of Special Facilities -- effective July 7, 1982.

22. CACD has reviewed Standard Form 79-800 and the repair work agreement submitted with AL 1485-E. CACD recommends their approval.

### Accounting

23. In a letter dated January 18, 1995, PG&E informed CACD that the booking of costs and revenues for the program will be done in deferred accounts until the market test is completed. After that, PG&E will consider whether to record the results of the operation above-the-line, as part of providing utility service,

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or below-the-line, as a non-utility operation. CACD concurs with this proposal because deferred debit accounting provides more flexibility and leaves open more options with respect to ratepayer sharing of revenues.

### Conclusions

24. CACD has reservations about approving utility requests for new competitive energy services through the advice letter process in a serial manner. On an *ex parte* basis, the global issues of the efficacy of utility entry into these markets, the competitive nature of these markets, the manner of regulating these markets, the purpose and benefits of getting into these markets, do not get the full airing that they would as in a formal proceeding. This drawback notwithstanding, there is an advantage to the Commission for having this service because the service could provide valuable data and information that will assist the Commission in deciding whether to adopt the new service on a permanent basis or require further conditions for its adoption.

25. CACD notes that the Commission will have a sufficient number of pilot programs from PG&E and other energy utilities, with the adoption of this service, as well as others pending before the Commission, that PG&E should not file further advice letters of this kind requesting pilot programs for competitive new services. This action by the Commission also addresses the concerns of those parties that maintain that the approval of this pilot program should not be construed as an implicit adoption of entry into the new market.

26. CACD has reviewed the protests by DRA, ETI, PST, ECAC, REI, and IETA, and PG&E's responses to those protests. It is the CACD view that the conditions and discussion presented above adequately dispose of the protests.

27. CACD believes that PG&E's request is reasonable and does not deviate from the norms established in past decisions and resolutions.

28. CACD recommends approval of PG&E's one-year substation maintenance service market test, subject to the following conditions.

- a. PG&E shall inform its prospective customers that other substation service firms are also available to perform the maintenance task.
- b. PG&E shall inform its prospective customers that the substation maintenance market test shall end one year from the effective date of the filing of the supplemental advice letter.
- c. PG&E shall establish a Substation Maintenance tracking account to record all expenses, revenues and investments of the Substation Maintenance program. A

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semi-annual report showing fully allocated revenues and costs (capital and expenses) should be provided by PG&E to the the Commission Advisory and Compliance Division 30 days after the completion of the first six months of the program, and again upon the completion of the market test.

- d. PG&E shall add a service interruption provision to its Standard Form 79-800 as follows:

PG&E shall make a reasonable attempt to provide those services requested hereunder in a timely and expeditious manner. However, PG&E shall not be responsible for any delay in completion of its work resulting from shortage of labor or materials, strike, labor disturbances, war, weather conditions, governmental rule, regulation or order, including orders or judgments of any court or Commission, delay in obtaining necessary rights of way and easement, acts of God, or any other cause or condition beyond the control of PG&E.

In the event that PG&E has insufficient material or labor resources to accommodate all of its construction and maintenance requirements, PG&E shall have the right to allocate these resources to the construction projects which it deems, in its sole discretion, most important to serve the needs of all of its customers. Any delay in service work for the Customer hereunder, resulting from such allocation or reallocation of PG&E's resources shall be deemed to be beyond PG&E's control.

- e. PG&E shall add an indemnification provision to its Standard Form 79-800 as follows:

Neither party shall be liable for specific, incidental, or consequential damages including, but not limited to, lost profits arising out of or in connection with the performance of this Agreement. Except for warranty obligations, explicitly made by PG&E, PG&E's liability for any matter arising out of or connected with this Agreement, whether arising in contract, tort, or strict liability, shall not exceed \$1,000,000.

29. Should PG&E choose to implement the Substation Maintenance Service test as qualified above, it may file a supplemental advice letter consistent with the recommendations of this Resolution. The supplemental advice letter, incorporating the above conditions, should be effective on the date filed.

30. If PG&E decides to continue offering the Substation Maintenance Service beyond one year, it may seek authorization by filing an application and submitting with it the following documentation prepared at shareholders' expense:

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- o a documented report explaining the extent that PG&E achieved the pilot test objectives set forth above (Background, paragraph 13) and the basis for its decision to continue the service.
- o a thorough evaluation of all ratepayer benefits during the market test with reference to all of the issues and conclusions in the utility's final report summarizing the results of the market test.
- o a detailed study identifying the existing market structure, showing all types of data collected during the test period on the market size (e.g., number and location of customers, size of installations) and survey information on customer interest in its service.
- o a report on PG&E's tracking of all substation maintenance data (e.g., size, number, cost, plant type, number and nature of complaints, types of breakdowns).
- o details of costs and revenues associated with the repairs and maintenance of the substations.
- o A detailed evaluation of the program to include, among others, assessment of the customer satisfaction with the program and the potential for prospective market penetration. The evaluation should show whether PG&E should expand its offering, stay with the initial customers, or terminate the service.

#### FINDINGS

1. Pacific Gas and Electric Company filed Advice Letter 1485-E on October 31, 1994 seeking approval of a one-year substation maintenance service market test.
2. PG&E has conducted preliminary market research for the purpose of assessing customer demand for substation maintenance.
3. PG&E's proposed substation maintenance service will not interfere with regular maintenance work elsewhere on its system.
4. Applicants for the service will sign a maintenance agreement (Form 79-800).
5. Pricing of the service will be according to the standard cost estimate procedures (Standard Practice #117.1 and Capital Accounting Instruction #7) plus a fixed percentage markup.
6. With the conditions imposed in this resolution, PG&E's one-year substation maintenance service market test will not restrict competition.
7. The test period ends 12 months after the effective date of the supplemental advice letter that incorporates modifications to AL 1485-E recommended by CACD above.

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8. PG&E states that during the test period, none of the costs related to damage repairs caused by PG&E, as well as customers' uncollectible bills and service-related liabilities, will be borne by PG&E ratepayers.

9. PG&E's service list for AL 1485-E meets the requirements of General Order 96-A.

10. Protests were filed by the Division of Ratepayer Advocates, Electro Test, Inc., Power Systems Testing Co., Rosendin Electric, Inc., Electrical Contractors Association of California, and International Electrical Testing Association.

11. The issues raised by the protestants are disposed of in this Resolution.

12. PG&E's request is reasonable as qualified in paragraph 28 of the Discussion.

13. Standard Form 79-800 is reasonable. PG&E may execute similar agreements under this pilot program without further Commission action provided that the cost methodology for Form 79-800 is used, the conditions in paragraph 28 of the Discussion are met, and PG&E accepts all liabilities arising from terms that deviate from Form 79-800.

**THEREFORE, IT IS ORDERED that:**

1. Pacific Gas and Electric Company Advice Letter 1485-E is approved subject to the following modifications:

- a. PG&E shall inform its prospective customers that other substation service firms are also available to perform the maintenance task.
- b. PG&E shall inform its prospective customers that the substation maintenance market test shall end one year from the effective date of the filing of the supplemental advice letter.
- c. PG&E shall establish a Substation Maintenance tracking account to record all expenses, revenues and investments of the Substation Maintenance program. A semi-annual report showing fully allocated revenues and costs (capital and expenses) should be provided by PG&E to the the Commission Advisory and Compliance Division 30 days after the completion of the first six months of the program, and again upon the completion of the market test.
- d. PG&E shall add a service interruption provision to its Standard Form 79-800 as follows:

PG&E shall make a reasonable attempt to provide those services requested hereunder in a timely and expeditious manner. However, PG&E shall not be

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responsible for any delay in completion of its work resulting from shortage of labor or materials, strike, labor disturbances, war, weather conditions, governmental rule, regulation or order, including orders or judgments of any court or Commission, delay in obtaining necessary rights of way and easement, acts of God, or any other cause or condition beyond the control of PG&E.

In the event that PG&E has insufficient material or labor resources to accommodate all of its construction and maintenance requirements, PG&E shall have the right to allocate these resources to the construction projects which it deems, in its sole discretion, most important to serve the needs of all of its customers. Any delay in service work for the Customer hereunder, resulting from such allocation or reallocation of PG&E's resources shall be deemed to be beyond PG&E's control.

- e. PG&E shall add an indemnification provision to its Standard Form 79-800 as follows:

Neither party shall be liable for specific, incidental, or consequential damages including, but not limited to, lost profits arising out of or in connection with the performance of this Agreement. Except for warranty obligations, explicitly made by PG&E, PG&E's liability for any matter arising out of or connected with this Agreement, whether arising in contract, tort, or strict liability, shall not exceed \$1,000,000.

2. Should PG&E choose to implement the Substation Maintenance Program as modified, it may file a supplemental advice letter incorporating the modifications set forth in the above paragraph not later than 30 days after the effective date of this Resolution. The supplemental advice letter shall be effective on the date filed.

3. Should PG&E decide to continue offering the Substation Maintenance Service beyond one year, it may seek authorization by filing an application and submitting with it the documentation prepared at shareholders' expense set forth in paragraph 30 of the Discussion.

4. PG&E may execute similar agreements under this pilot program without further Commission action provided that the cost methodology for Form 79-800 is used, the conditions in paragraph 28 of the Discussion are met, and PG&E accepts all liabilities arising from terms that deviate from Form 79-800.

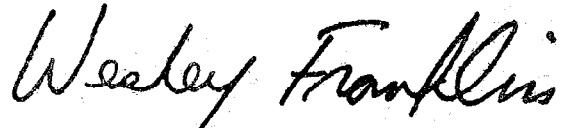
5. PG&E shall file no further advice letters requesting pilot or experimental programs for competitive new services.

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6. The protests of Division of Ratepayer Advocates, Electro-Test, Inc., Power Systems Testing Company, Electrical Contractors Association of California, Rosendin Electric, Inc., and International Electrical Testing Association are denied.

7. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 11, 1995. The following Commissioners approved it:



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WESLEY M. FRANKLIN  
Acting Executive Director

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners