

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3472

November 26, 1996

RESOLUTION

RESOLUTION E-3472. SAN JOAQUIN COUNTY LOCAL AGENCY FORMATION COMMISSION. REQUEST FOR A COMMISSION OPINION ON THE EFFECT OF THE PROPOSED FORMATION OF CROSSROADS IRRIGATION DISTRICT WITHIN PACIFIC GAS AND ELECTRIC COMPANY'S SERVICE TERRITORY.

BY LETTER DATED JULY 16, 1996, RECEIVED AUGUST 30, 1996.

SUMMARY

1. Pursuant to Government Code Section 56131, the San Joaquin County Local Agency Formation Commission (LAFCO) has requested the opinion of the California Public Utilities Commission (Commission) whether the formation of Crossroads Irrigation District (CID) will substantially impair the ability of Pacific Gas and Electric Company (PG&E) to provide adequate service at reasonable rates in the remainder of PG&E's service territory. CID proposes to provide irrigation and electrical service to new and existing customers within defined boundaries in the City of Lathrop in San Joaquin County.
2. This resolution finds that the proposed CID will substantially impair PG&E's ability to provide adequate service at reasonable rates in the remainder of PG&E's service territory unless PG&E's distribution system is either leased and/or purchased by CID.

BACKGROUND

1. Crossroads Ventures has applied to the San Joaquin County LAFCO to form Crossroads Irrigation District for the purpose of providing irrigation and electrical service to existing and new customers within a defined geographic region.

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2. At full build-out, CID will consist of 370.29 acres of land zoned for industrial uses in the City of Lathrop in San Joaquin County.
3. The CID "Plan of Operation" identifies that CID will either lease or construct new electric distribution facilities within the district boundaries.
4. Government Code Section 56131 requires the LAFCO to file a copy of the proposal by an irrigation district to furnish electrical service with the Commission. The Commission must then report to the LAFCO within 90 days its opinion whether the proposed service by the district "will substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility."
5. Public Utilities Code Section 369, adopted pursuant to Assembly Bill 1890 (Stats. 1996, Ch. 854), provides that "the obligation to pay the competition transition charges cannot be avoided by the formation of a local publicly owned electrical corporation on or after December 20, 1995".
6. Public Utilities Code Section 374 (a)(1), adopted pursuant to Assembly Bill 1890 (Stats. 1996, Ch. 854), provides that 110 megawatts (MWs) of load served by irrigation districts shall be exempt from the obligation to pay uneconomic costs. An irrigation district requesting an allocation of these 110 MWs must submit a detailed plan to the California Energy Commission (CEC).
7. Public Utilities Code Section 374 (a)(1)(F), adopted pursuant to Assembly Bill 1890 (Stats. 1996, Ch. 854), provides that any load within San Joaquin County, served by any irrigation district that is currently serving or will be serving retail customers, must submit a plan to the CEC if it requests an allocation of exempt load.
8. On October 18, 1996, in response to a request from Commission staff, PG&E provided load and revenue data for PG&E customers located within the boundaries of the proposed CID. PG&E currently serves 54 customer accounts, representing an annual load of 2,542 kW and 10,380,527 kWh, and annual revenues of \$932,472, that would be served by the proposed irrigation district.
9. Government Code Section 56131 does not define the factors in evaluating whether a proposed service would "substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility."

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NOTICE

1. The request of the San Joaquin LAFCO was dated July 16, 1996. The request was received in the Commission Advisory and Compliance Division on August 30, 1996.
2. The Energy Division noticed this letter on the Commission Calendar on October 17, 1996.

DISCUSSION

1. As Government Code Section 56131 does not define the factors on how to evaluate whether proposed service would "substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility", the Commission must establish criteria in making this determination.
2. The Energy Division recommends that the first factor the Commission should review is whether the customers of the proposed irrigation district will be able to bypass payment of generation-related transition costs, which would require remaining PG&E customers to cover those costs.
3. The Energy Division recommends that the second factor the Commission should review is whether the proposed irrigation district will install duplicative distribution infrastructure, potentially idling PG&E distribution facilities and requiring remaining PG&E customers to cover the costs of these idled facilities.
4. The Energy Division recommends that the third factor the Commission should review is whether the amount of generation related transition costs or costs of idled distribution facilities shifted to remaining PG&E customers, if any, would have a significant rate impact on remaining PG&E customers.
5. With respect to the first factor, formation of a local publicly owned utility does not exempt the customers served by the new utility from the obligation to pay the competition transition charge (CTC) (PU Code Section 369); however, irrigation districts may apply to the CEC for an allocation of load that is exempt from the obligation to pay CTC (PU Code Section 374). It is unclear whether CID would be eligible to apply for such an exemption.
6. If CID is unable to obtain a CTC exemption for the customers served by the new irrigation district, PG&E would be entitled to collect CTC from the departing customers as reimbursement for generation-related transition costs. If CID is unable to obtain a CTC exemption, collection of generation-related costs would not be shifted to remaining PG&E customers.

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7. If CID applies to the CEC for an allocation of load that is exempt from the obligation to pay CTC, and is granted some allocation, the remaining PG&E customers will be required to cover the costs of the CTC exemption. If such an exemption is granted, collection of some generation-related costs would be shifted to remaining PG&E customers.
8. The Legislature has explicitly provided that remaining customers will cover the costs for CTC exemptions for irrigation districts. Such a cost shifting was mandated by the Legislature. It is premature, at this time, to know if this cost shifting will impair its remaining customers at reasonable rates or not.
9. With respect to the second factor, CID's "Plan of Operation" does not specify firm plans regarding the purchase or lease of distribution facilities. If CID were to purchase or lease existing distribution infrastructure from PG&E, then the costs associated with those facilities would not be shifted to remaining customers. If CID chooses to build duplicative distribution infrastructure then the costs associated with existing facilities will need to be recovered from remaining PG&E ratepayers. Therefore, the Commission concludes that unless CID purchases or leases existing PG&E facilities, the formation of the CID would substantially impair the remaining customers at reasonable rates.
10. Regarding the final factor, PG&E currently collects annual revenues of \$932,472 from its customers within the proposed CID boundaries. Some portion, but not all, of that revenue goes to pay for generation-related costs that are currently included in rates, as well as paying for distribution costs. Because rates have not yet been unbundled, it is difficult to determine conclusively what percentage of those revenues are generation- or distribution-related.
11. Using the assumption that PG&E's remaining customers must cover the full revenue shortfall caused by the formation of CID, the rate impact would be 0.00128¢/kWh. This rate impact is calculated by dividing the annual revenues lost (\$932,472) by annual systemwide kWh sales less lost load (72,759,133,588 kWh - 10,380,527 kWh = 72,748,753,061 kWh). This shortfall may change depending on the rise or decline in load growth. In this specific instance, the Commission finds that the potential rate impact associated with CID's formation does not substantially impair PG&E's ability to provide adequate service at reasonable rates in the remainder of its service territory.
12. Since all three criteria cannot be satisfied in the affirmative, the Commission concludes that formation of the CID would substantially impair the remaining customers at reasonable rates, unless PG&E's distribution is either leased and/or purchased by CID. This resolution should be forwarded to the San Joaquin Local Agency Formation Council.

FINDINGS

1. The San Joaquin LAFCO request for an opinion under Government Code Section 56131 was dated July 16, 1996 and was received by the Commission Advisory and Compliance Division on August 30, 1996.
2. Government Code Section 56131 does not define how to evaluate whether proposed service would "substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility".
3. Whether the customers of the proposed irrigation district will be able to bypass payment of generation-related transition costs, whether the proposed irrigation district will install duplicative distribution infrastructure, and the rate impact of these actions on remaining PG&E customers are reasonable criteria for evaluating Government Code Section 56131.
4. If CID is unable to obtain a CTC exemption, collection of generation-related costs will not be shifted to remaining PG&E customers.
5. If a CTC exemption is granted, collection of some generation-related costs will be shifted to remaining PG&E customers.
6. The cost shifting result described above was mandated by the Legislature.
7. There is a possibility that costs associated with existing distribution infrastructure may be shifted to remaining PG&E customers, unless the CID purchases or leases existing PG&E facilities.
8. The potential rate impact associated with the formation of the CID does not substantially impair PG&E's ability to provide adequate service at reasonable rates to its remaining customers.
9. The formation of Crossroads Irrigation District would substantially impair PG&E's ability to provide adequate service at reasonable rates in the remainder of PG&E's service area.

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THEREFORE, IT IS ORDERED that:

1. A certified copy of this Resolution shall be mailed to the Executive Officer of the San Joaquin County Local Agency Formation Commission, Pacific Gas and Electric Company, and Crossroads Ventures.
2. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 26, 1996. The following Commissioners approved it:


WESLEY FRANKLIN
Executive Director

P. GREGORY CONLON
President
DANIEL WM. FESSLER
JOSIAH L. NEEPER
Commissioners

Commissioner Henry M. Duque being necessarily absent, did not participate.

Commissioner Jessie J. Knight, Jr. dissented.