

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

Rulemaking to implement the provisions of
Public Utilities Code § 761.3 enacted by
Chapter 19 of the 2001-02 Second
Extraordinary Legislative Section

Rulemaking 02-11-039

**PACIFIC GAS AND ELECTRIC COMPANY'S COMMENTS
ON REMAINING ISSUES IN R. 02-11-039**

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April 1, 2005

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

Rulemaking to implement the provisions of
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Pacific Gas and Electric Company ("PG&E") submits the following comments in response to the ruling issued on March 17, 2005, by the Assigned Commissioner and Administrative Law Judge requesting comments on remaining issues in R. 02-11-039 and proposed technical modifications to General Order ("GO") 167. PG&E is aware of one outstanding issue in need of further clarification by the Commission relating to the implementation of Public Utilities Code Section 761.3(d), which requires nuclear facilities and qualifying facilities ("QFs") to report certain information regarding outages, operational status and availability. Although GO 167 provides specific procedures and guidance to generators regarding implementation of the Operation Standards, Maintenance Standards, Logbook Standards, and other aspects of Section 761.3, it does not address implementation of the nuclear and QF reporting obligations in 761.3(d). As described more fully below, PG&E believes further guidance is necessary on this provision. PG&E and Southern California Edison ("SCE") previously raised this issue with the Commission's Consumer Protection and Safety Division's ("CPSD"), and understand that the CPSD is in agreement with the utilities' proposed methods for implementing these obligations.¹

Nuclear Facilities: As the Commission is aware, nuclear facilities are generally exempt from Section 761.3, with the exception of certain reporting obligations set forth in Section

¹ See Attachment A, E-mail from Eric Eisenman of PG&E to Mark Ziering of the CPSD.

761.3(d)(1). Specifically, Section 761.3(d)(1) requires the owner or operator of a nuclear facility to report to the Oversight Board, Commission, and the California Independent System Operator (“ISO”) information relating to maintenance schedules, planned and unplanned outages, and daily operational status and availability.²

Although the Commission has not yet specifically addressed implementation Section 761.3(d)(1), in August 2004, PG&E and SCE informed the CPSD that the utilities believe they are already providing the information called for in Section 761.3(d)(1) to the ISO through the ISO’s Outage Coordination Protocol. At that time, PG&E and SCE recommended that the Commission implement Section 761.3(d)(1) by requesting the information directly from the ISO, consistent with Section 10.2 of GO 167, which allows for the exchange of information between the Commission and other governmental agencies.³ Accordingly, PG&E requests the Commission to confirm that the utilities’ compliance with the ISO’s Outage Coordination Protocol satisfies the reporting obligations under Section 761.3(d)(1).

Qualifying Facilities: Like nuclear facilities, QF facilities are generally exempt from GO 167,⁴ with the exception of certain reporting obligations set forth in Section 761.3(d)(2)(B). Section 761.3(d)(2)(B) defines the QF reporting obligation based on whether or not the contracts

² See Public Utilities Code Sections 761.3(d)(1)(B) & (C), which provide:

(B) The owner or operator of a nuclear powered generating facility shall file with the Oversight Board and the commission an annual schedule of maintenance, including repairs and upgrades, updated quarterly, for each generating facility. The owner or operator of a nuclear powered generating facility shall make good faith efforts to conduct its maintenance in compliance with its filed plan and shall report to the Oversight Board and the Independent System Operator any significant variations from its filed plan.

(C) The owner or operator of a nuclear powered generating facility shall report on a monthly basis to the Oversight Board and the commission all actual planned and unplanned outages of each facility during the preceding month. The owner or operator of a nuclear powered generating facility shall report on a daily basis to the Oversight Board and the Independent System Operator the daily operational status and availability of each facility.

³ As the utilities noted in August 2004, some of the information provided to the ISO under the Outage Coordination Protocol is confidential and must be protected from public disclosure (e.g., prospective maintenance information).

⁴ Public Utilities Code Section 761.3(d)(2)(A).

between the utilities and QFs require the QFs to provide the information to the utilities. If the utilities are entitled to the information by contract, then the utilities are required to report the information to the Oversight Board and the Commission. If the utilities are not entitled to the information by contract, then QFs are required to report the information to the Oversight Board and the ISO.⁵

As PG&E and SCE noted in August 2004, there is not a clean fit between the reporting obligations under the QF contracts and the information required to be reported under Section 761.3(d)(2)(B). In addition, the timing of the reporting obligations under Section 761.3(d)(2)(B) is not clear (i.e., whether the information is required to be submitted monthly, quarterly, annually, or some other period). Accordingly, PG&E and SCE recommend that the CPUC convene a workshop to sort out the procedures for complying with Section 761.3(d)(2)(B). The workshop should cover, among other things, the identification of information that the utilities are or are not entitled to under contract and the schedule by which this information should be provided. PG&E recommends that workshop invitees include representatives from the utilities, the QFs, the ISO and the Oversight Board.

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⁵ See Public Utilities Code Section 761.3(d)(2)(B), which provides:

An electrical corporation that has a contract with a qualifying small power production facility, or a qualifying cogeneration facility, with a name plate rating of 10 megawatts or greater, shall report to the Oversight Board and the commission maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility. Each facility with a name plate rating of ten megawatts or greater shall be responsible for directly reporting to the Oversight Board and the Independent System Operator maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility, if that information is not provided to the electrical corporation pursuant to a contract.

PG&E would like to thank the Commission for the opportunity to provide these comments. We look forward to participating in any workshops scheduled by the Commission to clarify and resolve the reporting obligations discussed above.

Respectfully submitted,

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Dated: April 1, 2005

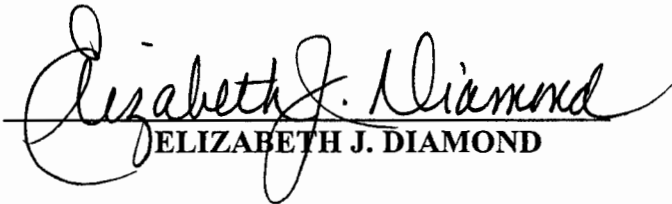
**CERTIFICATE OF SERVICE
BY
ELECTRONIC MAIL**

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 77 Beale Street, San Francisco, California 94105.

On April 1, 2005, I served a true and correct copy, via electronic service, *Pacific Gas and Electric Company's Comments on Remaining Issues in R.02-11-039* on all parties identified on the Electronic Service List listed on the California Public Utilities Commission website for Docket No. R.02-11-039.

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

Executed in San Francisco, California on April 1, 2005.


ELIZABETH J. DIAMOND

ATTACHMENT A

Loduca, Janet (Law)

From: Eisenman, Eric
Sent: Thursday, August 12, 2004 2:51 PM
To: Loduca, Janet (Law)
Subject: FW: Nuclear and QF Reporting Obligations

-----Original Message-----

From: Eisenman, Eric
Sent: Thursday, August 12, 2004 2:50 PM
To: 'maz@cpuc.ca.gov'
Subject: Nuclear and QF Reporting Obligations

Mark,

Thank you for your time yesterday to discuss the reporting obligations for nuclear and QF facilities pursuant to General Order 167 and Pub. Util. Code sec. 761.3(d). In this note, I would like to confirm what we discussed, and summarize the idea about holding a workshop on reporting QF facility information. As you know, nuclear facilities and QFs are generally exempt from General Order 167, with the exception of certain reporting obligations set forth in Section 761.3(d). General Order 167 does not contain any specific procedures regarding how the utilities and QFs should implement these reporting obligations. PG&E and Edison have discussed potential methods of implementation and recommend the following:

Nuclear facilities: PG&E and Edison believe that the information regarding nuclear facilities required to be reported under Section 761.3(d) is already being reported to the ISO pursuant to the ISO's Outage Coordination Protocol. PG&E and Edison recommend that the CPUC implement Section 761.3(d) by obtaining the information from the ISO, consistent with Section 10.2 of General Order 167. I understand that you agree with this proposal and will plan to pursue obtaining this information from the ISO (or the EOB). Accordingly, unless we receive notice from you to the contrary, PG&E and Edison will not plan on providing this information directly to the CPUC. One additional matter----some of the information provided to the ISO, particularly prospective maintenance schedules, is highly sensitive and confidential and could result in market manipulation if publicly released. Accordingly, the CPUC would need to maintain its confidentiality. Please let me know if you need PG&E and Edison to submit a formal request for confidentiality.

QFs: As we discussed, Section 761.3(d) defines the QF reporting obligation based on whether or not the contracts between the utilities and the QFs require the QFs to provide the information to the utilities. If the utilities are entitled to the information by contract, then the utilities are required to report the information. If the utilities are not entitled to the information by contract, then the QFs are required to report the information. Unfortunately, there is not a clean fit between the QF contracts and the information required to be reported under Section 761.3(d), and it is unclear which entity should be reporting which information. Accordingly, PG&E and Edison recommend that the CPUC convene a workshop with the utilities and QFs to sort out the procedures for complying with Section 761.3(d). I understand that you felt that this proposal has some merit and will likely schedule a workshop with the utilities and QFs in the next few months.

Thanks again for discussing these implementation issues. PG&E and Edison would be happy to meet with you to discuss these proposals further or answer any questions.

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ATTACHMENT A