

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)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

Summary

This ruling sets forth the procedural schedule, assigns a principal hearing officer, specifies the time and manner for requesting oral argument, and addresses the scope of the proceeding. This ruling follows a prehearing conference (PHC) held on November 16, 1999, pursuant to Public Utilities Code § 1701.1(b) and Rules 6(a) and 6.3 of the Commission's Rules of Practice and Procedure (Rules). This scoping memo ruling is issued as required by Public Utilities Code § 1701.1(b) and Rules 6(a)(3) and 6.3.

The Commission is the "lead agency" for purposes of compliance with the California Environmental Quality Act (CEQA). We set the schedule within the timetable laid out in CEQA. This schedule also meets the Public Utilities Code § 367(b) requirement that assets subject to valuation be valued not later than December 31, 2001.

1. Background

Pacific Gas and Electric Company (PG&E) filed this application on September 30, 1999, 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 non-consumptive 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. With the exception of three of the facilities and some of the associated lands, PG&E has authority to operate the facilities it proposes to divest of under licenses granted by the Federal Energy Regulatory Commission (FERC). The expiration dates of these licenses range from 1975 to 2033.¹

Public Utilities Code § 367(b) requires that the Commission set a value on these assets not later than December 31, 2001, and that the valuation be based on appraisal, sale or other divestiture. While the Commission encouraged the divestiture of a portion of each investor-owned utility's fossil generating assets in the Electric Restructuring Policy Decision, it did not envision the near-term divestiture of hydroelectric generating assets. (See 64 CPUC 2d 1, 54 (divestiture of fossil generating assets) and 66 (retention of hydroelectric generating assets), D.95-12-065, as modified by D.96-01-009.) In D.97-11-014, the Commission determined that the utilities must market value hydroelectric generating assets in compliance with § 367(b). PG&E wishes to base the valuation of its hydroelectric system on a divestiture approach, and requests the Commission make specific

¹ Where the license has expired, PG&E has requested license renewal. It presently operates those facilities under year-to-year authority granted by FERC while FERC considers its renewal request.

findings to authorize divestiture. We summarized PG&E's requests in our November 3, 1999, ruling in this docket.

The proposed sale of PG&E's substantial hydroelectric system is also subject to Pub. Util. Code § 851. That section reads as follows:

No public utility ... shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its ... plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, ... without first having secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing it is void.

Pursuant to Pub. Util. Code § 851, we will consider whether divestiture by PG&E of its hydroelectric generating assets is in the public interest. PG&E is proposing a very fundamental change in the operation of its hydroelectric generating assets. The assets have been operated on an integrated basis, as a system, for decades as part of PG&E's obligation to serve its ratepayers. A web of power production and water rights contracts, and the business relationships that underlie each contract, is integral to PG&E's hydroelectric generating system. Downstream systems, sometimes owned or operated by others, have, at least implicitly, relied on or assumed integrated operation by PG&E of its upstream facilities. The northern California hydroelectric generating system is a complicated melding of power production, water uses, recreational opportunities and environmental stewardship.

As we evaluate PG&E's proposal, and alternatives to it, we are mindful that new and multiple ownership of any of these generating assets may result in changed operation, and that a new balance among power production, water uses, recreational opportunities and environmental stewardship may need to be

struck. That changed operation may make good business sense for the new owner, but it may bring with it environmental impacts that reduce or outweigh the power production benefits for any one or more of the assets. The CEQA process, described below, will inform the Commission of the potential effects of these changes. We will also evaluate PG&E's proposal, and alternatives to it, with an eye toward ensuring that any divestiture achieves for Californians the highest price possible in a fair and open process. The public's interest in divestiture of these extensive hydroelectric generating assets balances an economically sound approach with an environmentally sound approach.

Once any divestiture, if authorized, is complete, the new owner of a hydroelectric facility will need to request the FERC transfer the license to it from PG&E. The new owner will also assume responsibility for license renewal before the FERC.

2. The Need for an Order Instituting Investigation

A number of parties argue that the Commission should open an Order Instituting Investigation as a companion to this application. PG&E objects. We are not convinced that, at this time, it is necessary to open an investigation to preserve the scope of activities we intend to consider in this docket.

Many parties supporting the adoption of an Order Instituting Investigation express concern that absent such an investigation, PG&E will refuse to respond to certain requests for information, claiming the requests are outside the scope of the application. In addition, many parties supporting the adoption of an Order Instituting Investigation express concern that absent such an investigation, PG&E will have undue influence and control over the schedule for this proceeding.

The Commission has the duty and authority to determine the scope and conduct of this proceeding, to require timely responses to all requests for information within that scope, and to establish the schedule of the proceeding

pursuant to Pub. Util. Code § 1701(b) and CEQA. Further, this application is the procedural vehicle through which the Commission will meet its statutory obligation in Pub. Util. Code § 367 to value PG&E's hydroelectric generating assets. Therefore, we find that this application will remain open until the Commission is satisfied that its statutory obligations may be met. We do so in recognition of the Commission's statutory obligations, cited above, and consistent with the finding of the California Supreme Court that the Commission is to take an active role in the processing of its cases, controlling the scope and method of its inquiries. (See California Motor Transport Co., LTD. v. Railroad Commission, 30 Cal.2d 184, 188 (1947).)

3. Consolidation

On November 15, 1999, the Northern California Power Agency (NCPA) filed a Motion to Consolidate this proceeding with Application (A.) 98-05-022, PG&E's application to report assessments of inventory balances and to address appraisal of retained generation assets. PG&E filed a response to the motion, opposing consolidation.

Much of NCPA's motion argues for the opening of an Order Instituting Investigation, which we addressed above, and on access to information, which we address later. Neither of these sets of arguments supports consolidation of this proceeding with A.98-05-022. To support consolidation, NCPA argues in favor of the draft decision pending before the Commission in A.98-05-022.

In its response, PG&E argues that this current application provides an appropriate forum for the Commission to consider all issues relevant to the market valuation and sale of its hydroelectric generating assets.

We agree with PG&E. We are not convinced to consolidate the record from A.98-05-022 with this proceeding. Any party that wishes the Commission to consider in this proceeding issues or argument made in A.98-05-022 should

bring those issues or arguments to the Commission's attention in this docket. We deny NCPA's motion.

4. Scope and Schedule

Our Rules of Practice and Procedure instruct the applicant and all parties responding to the application to include comments on the scope and schedule. Every individual or organization that entered an appearance at the PHC stated its interest in the proceeding at the PHC. The scope and schedule we identify in this ruling takes into account issues raised in the application, protests, and responses, and at the PHC.

The schedule we set is driven largely by our belief that the environmental impact analysis is a vital aspect of the inquiry to be conducted on behalf of the public pursuant to Pub. Util. Code § 851. The divestiture and valuation issues presented in this application can best be determined after we have reviewed the environmental impacts of a change in ownership and operation of PG&E's hydroelectric generating assets. We set the schedule of this proceeding so that any bidder may finalize its bid informed by the outcome of the Commission's analysis of environmental impacts. Uncertainty surrounding the Commission's views on environmental impacts may artificially reduce the value bidders place on the assets.

Most of the issues raised by the parties relate to one of four broader issue areas: the Commission's responsibility to comply with the California Environmental Quality Act (Public Resources Code § 21100, et seq.); the proper and timely collection of uneconomic generation costs; the proposed divestiture approach; and the inclusion of miscellaneous other issues into the scope of this proceeding which may affect both the CEQA and divestiture phases. We will address each of these issue areas in turn.

California Environmental Quality Act

Approval of PG&E's divestiture application is discretionary on the part of this Commission and could have a significant physical impact on the environment, so CEQA applies. The Commission is the lead agency under CEQA for reviewing this application. The Commission's Energy Division will conduct an environmental review to assure the Commission's compliance with the act.

The scope and schedule of this proceeding and the activities undertaken in the context of CEQA review must complement each other. CEQA review should provide the Commission with insight into the potential environmental impacts of PG&E's proposed project as well as the environmentally-preferred alternative Energy Division recommends, in the event it differs from PG&E's proposal. The Commission must balance environmental values with legal constraints and the economic and policy considerations presented by PG&E's preferred approach, and that of any alternatives under consideration in the CEQA phase. This balancing will occur in the divestiture phase.

PG&E filed and served its Proponent's Environmental Assessment on October 29, 1999. With the benefit of about two months of review, and having reviewed several other proposals for divestiture of generating assets, the Energy Division believes it is likely that it will be required to prepare an Environmental Impact Report (EIR) to comply with CEQA.² (See No Oil, Inc. v. City of Los

² It is important to note, however, that the Division has not yet deemed PG&E's Proponent's Environmental Assessment complete, pending review of the documents by qualified expert consultants. The Division published the Request for Qualifications to begin the process of engaging a consultant on December 29, 1999.

Angeles, 13 Cal.3d 68, 83-85 (1974) and Laurel Heights Improvement Assn. v. Regents of University of California, 47 Cal.3d 376, 390, 392 (1988).)

The “project” for purposes of CEQA review is the transfer of ownership, and the possibility that ownership change, and perhaps ownership by multiple entities, will result in changed operation of PG&E’s hydroelectric generation assets. A necessary component of an EIR is consideration of alternatives to the proposed project, including the “no project” alternative. The fundamental question the CEQA phase of this proceeding will address is whether the change in ownership, and attending changes in operation, of PG&E’s hydroelectric generation assets will create environmental impacts locally or regionally that would not occur should the assets be retained by the utility, the “no project” alternative. Unlike the Commission’s review of fossil generating asset divestiture, this review must consider a broader range of ownership interests that may effect the operation of and therefore the impacts from the assets. For example, an entity may purchase an asset or bundle of assets because of its interest in 1) consumptive water uses, 2) power generation, 3) dismantling the plant and restoring the site. The CEQA review should also include, among other things, consideration of the effect of a change in ownership, and perhaps multiple ownership, on water systems and watershed management, agriculture, recreation, and other social and economic interests.

A number of parties have proposed alternative approaches to PG&E’s preferred divestiture approach. Those approaches include, for example, different bundling of the assets, no bundling of the assets, conservation easements on the lands, decommissioning of facilities that are uneconomic to run on a stand-alone basis or where environmental damages of a change in ownership outweigh the energy-associated economic benefits, and limited-time state ownership. The

Commission will consider approaches like these in the CEQA phase as well as the divestiture phase of this proceeding.

A necessary early step in any EIR process is scoping meetings, where the Commission's staff holds public meetings to share its views on the scope of the analysis and the definition of the issues to be considered. Members of the public may offer their views on scope and issues. Commission staff will then analyze the appropriate range of alternatives and issues with the benefit of these scoping meetings, as well as inter-agency consultation.

Before undertaking this scoping process, we invite parties to respond to PG&E's Environmental Assessment. Since PG&E filed its Environmental Assessment 30 days after filing its application, the protests and responses, due shortly thereafter, did not address the Environmental Assessment. The schedule we set in this ruling will afford parties the opportunity to respond to PG&E's filing.

In its application, and more fully in its Environmental Assessment, PG&E has argued that the Commission's non-rate regulation authority over these hydroelectric generating assets is very limited given the FERC licensing authority. PG&E notes that § 19 of the Federal Power Act grants the states the authority to regulate retail services and the rates for such services. A number of parties claim that the Commission has greater authority than that argued by PG&E.

While we are aware of these arguments, we are not ruling on them at this time. The scope of our authority is somewhat dependent on the purpose to which any purchasers will put the assets. At this stage of the process, we do not know who the new owner(s) of these generating assets will be, nor for what primary purpose that new owner(s) will purchase the assets. These two pieces of information may influence changes in operation of the assets and therefore the

environmental impacts of the project, and may affect the scope of preemption. Therefore, it is too early for us to determine the final extent to which potential Commission actions would be preempted by FERC. Further, the environmental review process serves an important informational purpose as we consider the broad public interest issues PG&E's proposal presents. In addition, we note that three of the generating assets included in PG&E's application, and some of the lands, are not licensed by FERC and therefore present no Federal Power Act preemption issues.

Divestiture Phase

In the divestiture phase of the proceeding, the Commission will consider whether divestiture of PG&E's hydroelectric generating system is consistent with Pub. Util. Code § 851. The Commission will consider how any divestiture should occur, reviewing, at least, the specifics of PG&E's proposed auction. Pursuant to § 851, the Commission will consider whether divestiture of PG&E's hydroelectric generating assets, and any alternative to divestiture, is in the public interest. During this public interest inquiry, the Commission will consider the issues raised and ultimately the recommendations made in the draft EIR. The divestiture phase public interest inquiry and the issues considered in the CEQA phase must be coordinated, and so interested parties are encouraged to participate in both the CEQA phase and the divestiture phase. The CEQA phase is the forum for consideration of environmental impacts. In the divestiture phase, the Commission will also consider any economic, safety, and reliability impacts of divestiture and alternatives on PG&E's electric customers.

We envision the Commission issuing a decision on whether divestiture, or alternatives to it, is in the public interest. We will also consider the specifics of developing and implementing the advocated divestiture approaches. The Commission will consider the concerns parties have raised with respect to

PG&E's proposed auction. For example, the Commission will consider PG&E's request that its affiliate, PG&E Generating Company, be allowed to participate as a bidder, the appropriateness and scope of authority of an auditor function to oversee and ensure the fairness of the auction, how to accommodate public-entity bidders, and whether a price-only auction is appropriate. The Commission will also consider the PG&E-proposed contracts and agreements and the PG&E-proposed accounting and ratemaking treatment. After approval of a divestiture approach and any divestiture/auction requirements, the divestiture process can start. The Commission will concurrently consider the recommendations made in the environmental review. The Commission will balance the environmentally-preferred alternative (recommended in the EIR) against the legal constraints and the economic and policy considerations presented by PG&E's preferred approach, should they differ, and any alternatives presented in the divestiture phase.

After completion of the divestiture process, PG&E will demonstrate its compliance with Commission requirements. The divestiture process "winner(s)" and any winning bids will be declared. At this juncture, when the recipient entity is known, the Commission may consider whether the new owner has market power that warrants consideration of mitigation measures (in addition to any that may have been included in the terms of transfer.) The final decision approving the divestiture results will address compliance with the auction requirements and market power. The Commission will also be in a position to rule that, given compliance with the divestiture requirements, the proceeds PG&E receives at the close of the transfer represent the market value of the hydroelectric generating assets and constitute final market valuation in compliance with Pub. Util. Code § 367. Finally, the Commission will make the

findings necessary for the assets to receive exempt wholesale generator status under § 32(c) of the Public Utility Holding Company Act of 1935.

Also at this time, the Commission will know for the first time the actual bundles of assets sold and the intended use. Supplemental CEQA work may be necessary to ensure the Commission has sufficiently addressed the cumulative and regional impacts of the project given the recipient entity's ownership interests and the asset bundles.

This divestiture phase will culminate in authorization, under Pub. Util. Code § 851, for PG&E to divest its hydroelectric generating assets to specific entity(ies).

Uneconomic Generation Costs

In the notice of prehearing conference mailed November 3, 1999, the question of whether the Commission should establish a ratemaking approach to value PG&E's hydroelectric generating assets was highlighted for discussion. This valuation would be solely for ratemaking purposes, and to ensure PG&E's recovery of uneconomic costs in the near term. Concern that PG&E's proposed schedule would not have the rate freeze end until June 2001 was expressed. As noted in the notice, interests in an early end to the rate freeze may make fulfilling our other statutory responsibilities more challenging, both for careful, open and deliberative review of the application and alternatives, and for environmental review under CEQA. The recovery of uneconomic costs, and the estimated valuations which underlie that recovery, is an issue being addressed in the first Annual Transition Cost Proceeding, A.98-09-003 et al. A proposed decision in that proceeding was published on January 6, 2000. At this juncture, we anticipate that establishing an interim valuation in this proceeding will not be necessary.

Miscellaneous Issues

A number of parties have raised issues that may affect the scope of both the CEQA and divestiture phases of the proceeding. The first is whether the Commission should review the disposition of additional lands historically associated with the generating assets but not included in the specific FERC licenses. The second is whether to require PG&E to include in its divestiture proposal its hydroelectric power purchase agreements.

The first issue relates to approximately 44,000 acres of land PG&E owns that is associated with generating assets PG&E proposes to divest but that it did not include in the Application. The proposed divestiture includes approximately 102,000 acres of land PG&E controls through fee ownership. Some of this land contains major components of the generating facilities, is encumbered by existing FERC hydroelectric facilities boundaries, or is regarded by PG&E as otherwise necessary or appropriate for the maintenance and operation of the hydroelectric facilities. In its Application (p. 5), PG&E states that it owns other lands that may be in generation rate base that it intends to market value through a separate application. The Pacific Forest Trust argues in its Response to the Application that to protect all of these watershed lands, including the 44,000 acres, will complement and maintain the financial values of the hydroelectric generating assets, maintain water quality, provide habitat, protect open space, provide recreational opportunities, sustain forestry, and mitigate greenhouse gas accumulation.

We agree that these additional watershed lands should be included in the CEQA review and subsequent divestiture phase of this proceeding. They have been part of PG&E's regulated assets given their watershed preservation and management value. PG&E has stated that it plans to market value these assets,

and we are prepared now to consider their market value and whether the divestiture of these lands is in the public interest as part of this proceeding.

Some parties also want PG&E to include hydroelectric power purchase agreements in the divestiture proposal. The treatment afforded these contracts under Pub. Util. Code § 367 is different from the treatment applied to assets subject to the valuation requirement. Public Utilities Code § 367(a)(2) provides that power purchase contract obligations shall continue for the life of the contract. We agree with PG&E that while the code section allows for the buy-out, buy-down, or renegotiation of such power purchase contracts, it does not require valuation. We will not require PG&E to include its hydroelectric power purchase agreements in its proposal, and we will not consider these contracts in the CEQA or divestiture phases of this proceeding.

Schedule

In Section 13 of Senate Bill (SB) 960 (Ch.96-0856), the Legislature urges the Commission to resolve the issues within the scope of a proceeding categorized as ratesetting, such as this, within 18 months from the date of the filing of the application. Although we strive to meet that goal, we anticipate that the completion of the two phases of this proceeding may exceed 18 months. The schedule we set aggressively and efficiently takes up the issues the Commission must address while affording interested parties a fair opportunity to participate in the proceeding. This schedule is driven by two separate and distinct statutory requirements: those contained in CEQA and the Pub. Util. Code § 367(b) requirement that assets subject to valuation be valued by December 31, 2001.

The early stage of our CEQA review includes the Commission seeking authority to notice and ultimately sign a contract and expend the funds necessary to conduct the CEQA review. The Commission's CEQA review can not begin in earnest until we have the authority to hire our consultant. The schedule we set

anticipates that the process of obtaining the necessary authority will take about 2 months.

Date	Initial Phase	
9/30/1999	Application filed	
10/4/1999	Application noticed	
10/29/1999	Testimony and Proponent's Environmental Assessment filed	
11/3/1999	Protests	
11/15/1999	Reply to protests	
11/16/1999	Prehearing Conference	
12/29/1999	Notice of Request for Qualifications for Commission consultant published in coordination with Department of General Services	
1/13/2000	Scoping Memo and Ruling Issued, establishing scope and scheduling phases of proceeding	
Ongoing	CEQA Phase	Divestiture Phase
	Informal agency consultation	Discovery and PG&E information distribution
2/1/2000	Supplemental Protests and Responses filed addressing PG&E's Proponent's Environmental Assessment	PG&E serves supplemental testimony to include additional watershed lands and revised confidentiality agreement in its proposal
3/2/2000		Testimony served in opposition to PG&E Testimony Supporting Application (served October 29, 1999, and supplemented 2/1/2000) and proposing alternatives
3/16/2000	File Notice of Preparation of an EIR and conclude completeness review	PG&E serves Rebuttal Testimony
3/23/2000		PHC to discuss need for evidentiary hearing and schedule on § 851 ratepayer interest issues and divestiture/auction specifics

4/3/2000		Evidentiary hearings conducted on § 851 ratepayer interest issues and divestiture/auction specifics issues
4/2000 – 5/2000	Scoping Meetings and formal agency consultations	Public Participation Hearings
5/15/2000		Concurrent Opening Briefs Filed (including any request for oral argument)
6/1/2000		Reply Briefs Filed and case submitted
9/1/2000	Draft EIR published for 45-day public comment (Resources Code § 21091(a))	Proposed Decision on whether divestiture is in the public interest and the divestiture/auction specifics published for 30-day public comment (Pub. Util. Code § 311(d))
10/2000	Public meetings on Draft EIR	
10/16/2000	Comments on Draft EIR submitted	
10/19/2000		Proposed Decision on whether divestiture is in the public interest and on auction/divestiture specifics before the Commission for consideration at Business Meeting
15 days from adoption of decision		Divestiture process starts
11/2000	Final EIR published and Proposed Decision certifying Final EIR published for 30-day comment (Pub. Util. Code § 311(g))	
12/7/2000	Decision adopted certifying Final EIR	
1/3/2001		Closing activities begin

1/16/2001		PG&E compliance filing and supporting testimony
2/7/2001		Opposition testimony served
2/14/2001		Evidentiary hearing on PG&E compliance with Decision
2/28/2001		Concurrent Opening Briefs filed (including any request for oral argument)
3/15/2001		Reply Briefs Filed and case submitted
4/15/2001		Proposed Decision on compliance with earlier Decision published for 30-day public comment (Pub. Util. Code § 311(d))
5/15/2001		Decision adopted on compliance with earlier Decision
6/01/2001		Divestiture process closes

5. Data Room/Information Availability

Parties appearing in this proceeding have various interests. PG&E proposes that only bidders have access to its “data room” and “confidential information memorandum.” A number of parties appearing in this proceeding have no interest in bidding for the assets, but still have a legitimate interest in the proceeding. Parties cannot effectively participate in this proceeding if they do not have adequate information about the hydroelectric generating assets. We therefore find that all appearances in this proceeding should have access to relevant information, with certain conditions.

PG&E is concerned about the effects of sharing of what it characterizes as commercially sensitive information. It believes that disclosure may reduce the value of the assets in the minds of potential bidders. PG&E states a concern that the less restricted the sharing of this information, the greater the perceived risk of competitive or relicensing harm, and therefore the lower the value of the assets to potential bidders.

PG&E suggests that the Commission may wish to allow access to information to interested parties after signing a confidentiality agreement. PG&E suggests that, unlike bidders, these parties would have the right to make material obtained from the “data room” public after giving PG&E notice and an opportunity to seek to continue protection of the material by motion before the Commission.

We believe PG&E’s general approach appropriately allows parties appearing in this proceeding access to the information necessary for effective participation in the proceeding while limiting use of the information to these proceedings. Its approach permits access to information for the development of a full and complete record here, while limiting the perceived risk of competitive or relicensing harm that might occur with indiscriminate access to information. To

the extent a party wishes to use information obtained in this proceeding in a FERC relicensing proceeding, it will need to seek the information there.

Therefore, we will adopt PG&E's approach.

As part of this approach, we intend parties appearing in this proceeding to have access to both the data room information and the confidential information memorandum, and that the information be available now.

6. Category, Appeals, and Rules Governing Communications with Decisionmakers

This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3024, filed on October 7, 1999, that the category for this proceeding is ratesetting and that hearings are necessary. This ruling, only as to category, is appealable under the procedures in Rule 6.4. The *ex parte* rules as set forth in Rules 7 and 7.1 of the Commission's Rules of Practice and Procedure apply to this proceeding.

7. Principal Hearing Officer and Final Oral Argument

Pursuant to Pub. Util. Code § 1701.3, this ruling designates ALJ Barbara Hale as the principal hearing officer in this application.

As stated in the schedule above, and pursuant to Rule 8(d), parties requesting oral argument before the Commission should include that request in the opening brief related to that portion of the case, filed and served after hearing.

8. Amendments to the Scope and Schedule

As this proceeding unfolds, we may amend the scope and schedule of this proceeding. There are many critical-path activities in the CEQA phase which could delay or accelerate the schedule and the scoping meetings and inter-agency consultations will affect the scope of the CEQA review. We will amend the scope and schedule of this proceeding as appropriate.

Therefore, **IT IS RULED** that:

1. PG&E may not withdraw this application without the express authority of the Commission.
2. The scope and schedule of this proceeding is set forth in Section 4 of this ruling.
3. This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3024, issued on October 7, 1999, that the category for this proceeding is ratesetting and that hearings are necessary. This ruling, only as to category, is appealable under the procedures in Rule 6.4.
4. The ex parte rules as set forth in Rules 7 and 7.1 of the Commission's Rules of Practice and Procedure apply to this application.
5. Administrative Law Judge Hale is the principal hearing officer in this application.
6. The official service list is attached to this ruling. Parties appearing in this proceeding should serve all filings on parties and non-parties listed on the service list, as directed in the ruling of ALJ Hale filed November 30, 1999. An update of the service list may be obtained via the Commission's webpage, www.cpuc.ca.gov. Choose "Service Lists" on the "Quick Links" bar. The service list for this proceeding can be located in the "Index of Service Lists" by scrolling to the application number.

Dated January 13, 2000, at San Francisco, California.

/s/ Loretta Lynch
Loretta M. Lynch
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 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated January 13, 2000, at San Francisco, California.

Mae F. Dyson

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.