

Decision 00-12-023 December 7, 2000

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

Application of PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, and RICHARD L. WILLS and DONNA M. WILLS for an Order Authorizing the Former to Sell and Convey to the Latter Two Parcels of Land in Alameda County Pursuant to Public Utilities Code Section 851. (Electric) (U 39 E)

Application 97-06-002  
(Filed June 2, 1997)

**ORDER MODIFYING DECISION 99-10-001**

**I. Summary of Relief Granted**

Pursuant to Rule 47 of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) filed a Petition for Modification of Decision (D.) 99-10-001, issued October 7, 1999, in Application (A.) 97-06-002.<sup>1</sup>

In D.99-10-001, the Commission approved the joint recommendation of PG&E and the Office of Ratepayer Advocates (ORA) to defer resolution of the ratemaking issues presented by this Section 851 application to PG&E's then-pending distribution performance based ratemaking (PBR) application (A.98-11-023).

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<sup>1</sup> PG&E filed on May 1, 2000, a consolidated petition for modification of the three decisions previously deferred to PG&E's distribution PBR proceeding, including D.99-10-001. Pursuant to the oral request of the Commission's Docket Office on May 4, 2000, PG&E is filing this separate petition for modification of D.99-10-001.

By this Order, the Commission modifies D.99-10-001 to (1) reflect the fact that PG&E has withdrawn its distribution PBR application; and (2) transfer resolution of the ratemaking issues presented by A.97-06-002 to A.00-09-002, the application addressing gain on sale issues filed by PG&E on September 1, 2000.

## **II. Factual Background**

### **A. PG&E's Dixon Landing A.97-06-002**

On June 2, 1997, PG&E filed A.97-06-002 for approval to sell two parcels of land to Richard and Donna Wills. Consistent with previous § 851 applications, PG&E proposed that the net proceeds from the sale be credited to the Competition Transition Charge (CTC) balancing account. ORA agreed with this proposed ratemaking treatment.

In D.99-02-033, the Commission concluded that, because the transaction resulted in a net loss, PG&E was precluded by Pub. Util. Code § 367 from recovering through transition costs a nongeneration-related uneconomic asset. Therefore, the Commission approved the sale but ordered PG&E to propose new ratemaking for this property transfer which does not involve charging the loss to transition costs. (D.99-02-033, mimeo., p. 15, Ordering Paragraph 4.)

In D.99-10-001, the Commission adopted PG&E and ORA's joint recommendation that the Commission defer disposition of the ratemaking issue in A.97-06-002 and instead consider it in the context of PG&E's PBR A.98-11-023, wherein PG&E had proposed ratemaking treatment of gains/losses stemming from sales of depreciable and non-depreciable (land) assets. (D.99-10-001, mimeo., pp. 1-2.)

**B. PG&E's 1999 General Rate Case (GRC)  
Decision and Petition to Withdraw its PBR  
Application**

On July 21, 1999, the assigned administrative law judge (ALJ) in PG&E's PBR proceeding issued a ruling suspending the procedural schedule until after the Commission has issued a final decision in PG&E's 1999 GRC.

On February 17, 2000, the Commission issued its final decision in PG&E's 1999 GRC. In the decision, the Commission stated:

"We do not intend to proceed with PBR for PG&E at this time. That proceeding should not move forward to create a structure of financial incentives or financial benchmarks at this time." (D.00-02-046, mimeo., p. 477.)

Consistent with the Commission's directive in D.00-02-046, PG&E filed a petition to withdraw its PBR application on March 30, 2000.

**III. PG&E's Basis for its Request for  
Modification**

In view of PG&E's withdrawal of its PBR application, PG&E requests that D.99-10-001 be modified to the extent it orders that the ratemaking issues raised in A.97-06-002 be resolved in PG&E's PBR proceeding. Pursuant to discussions with ORA, PG&E proposes that the ratemaking issues raised in A.97-06-002 be addressed in a proceeding initiated by PG&E by A.00-09-002 filed on September 1, 2000. That application will address, at minimum, the ratemaking treatment to be applied to the applications previously deferred to the PBR proceeding (as well as three pending Section 851 applications filed prior to the Commission's decision in PG&E's 1999 GRC), and may also address the ratemaking treatment to be applied generally to *all* sales of PG&E's non-generation-related assets.

Good cause exists to grant the requested modification. Rather than litigating the ratemaking treatment for each of the sales on a case-by-case basis, it makes sense to address the ratemaking treatment for all of the sales in one proceeding.

Ratepayers will not be harmed by granting the relief requested. The proceeds from D.99-10-001 land sale have been tracked in a memorandum account – the Real Property Sales Gain/Loss Memorandum Account – that was established in compliance with D.99-10-001 and will continue to accrue interest at the three-month commercial paper rate. Therefore, there is no negative rate impact from modifying the decision to defer resolution of the ratemaking issues raised in A.97-06-002 to A.00-09-002 filed by PG&E on September 1, 2000.

#### **IV. Public Review**

This is uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

#### **Finding of Fact**

This petition to modify D.99-10-001 requests formal transfer of unresolved ratemaking issues from A.98-11-023 to A.00-09-002 as approved by all parties.

#### **Conclusion of Law**

The petition to modify should be granted.

**IT IS ORDERED** that Decision 99-10-001 is modified as follows:

1. On page 2, insert the following paragraph before “We agree with the parties:.”

On March 30, 2000, PG&E petitioned to withdraw its performance based ratemaking (PBR) application, and on May 1, 2000, Pacific Gas & Electric Company (PG&E) requested

that the ratemaking issues in this application be resolved in a future application addressing gain on sale issues to be filed on September 1, 2000.

2. On page 2, in the final sentence before the header “Comments on Draft Decision,” replace the phrase “PG&E’s PBR proceeding, A.98-11-023” with “A.00-09-002, September 1, 2000.”

3. On page 3, Finding of Fact 3a, replace the phrase “PG&E’s performance based ratemaking application (A.98-11-023)” with “A.00-09-002, September 1, 2000.”

4. On page 3, Finding of Fact 3b, strike the phrase “in A.98-11-023.”

5. On page 3, Ordering Paragraph 1, replace the phrase “ongoing performance based ratemaking (PBR) proceeding application (A.98-11-023)” with “A.00-09-002 addressing gain on sale issues filed on September 1, 2000.”

6. Application 97-06-002 is closed.

This order is effective today.

Dated December 7, 2000, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
CARL W. WOOD  
Commissioners