PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ITEM# 19 I.D.# 7768

ENERGY DIVISION RESOLUTION E-4172

July 31, 2008

R E S O L U T I O N

Resolution E-4172. Pacific Gas and Electric Company [PG&E] requests confirmation of the appointment of Susan S. Muranishi to serve on its Committee of Nuclear Decommissioning Trust Funds. Request approved with modification.

By Advice Letter [AL] 3252-E, filed on April 18, 2008.

SUMMARY

PG&E's nomination of Ms. Muranishi is approved. PG&E should start its nomination process six months in advance for anticipated Committee vacancies.

This Resolution confirms the appointment of Susan S. Muranishi [Ms. Muranishi] to serve a five year term on PG&E's Nuclear Facilities Decommissioning Master Trust Committee [the Committee] starting July 31, 2008. PG&E is directed to start its nomination process six months in advance to reduce the potential for vacancies on the Committee.

BACKGROUND

The California Public Utilities Commission [the Commission] opted for externally managed trust funds to accrue nuclear decommissioning trust funds.

In Order Instituting Investigation 86, the Commission conducted an investigation into methods of financing the cost of decommissioning California's investor owned nuclear power plants. In Decision [D.] 87-05-062, the Commission adopted externally managed trusts as the vehicle for accruing decommissioning funds. In that Decision the Commission also established guidelines for the trust agreements.

The non-affiliated members of the Committee managing the trusts must be confirmed by the Commission.
On November 25, 1987, PG&E's two Nuclear Facilities Decommissioning Master Trust Agreements [Trusts] were approved by the Commission in Resolution E-3048. Two trust agreements were required; one for the decommissioning funds which qualify for an income tax deduction under Section 468A of the Internal Revenue Code [Qualified Trust] and one for the remaining funds [Non-Qualified Trust].

The Committee managing the Trusts consists of **five** members nominated by PG&E's management and confirmed by its board. No more than two members of the Committee may be affiliated with PG&E. The three members from outside of the company are to be confirmed by the Commission and serve terms of five years. The Committee is responsible for investing the Trusts' assets, directing and managing the Trusts, including the appointment of trustees and investment managers and the execution of whatever contracts, agreements, or other documents it deems necessary in the course of its duties.

By this filing, PG&E is requesting the Commission confirmation of Ms. Muranishi as a Committee member not affiliated with PG&E, in accordance with the provisions of the Trusts. The nomination of Ms. Muranishi to serve for five years has been confirmed by PG&E's Board of Directors on April 16, 2008.

NOTICE

PG&E mailed copies of AL 3252-E to parties listed in the advice letter in accordance with General Order 96A. Notice of AL 3252-E appeared on the Commission's Daily Calendar.

PROTESTS

AL 3252-E was not protested.

DISCUSSION

Ms. Muranishi has no conflict of interest.

If Ms. Muranishi is confirmed by the Commission, she will fill a vacancy created by the departure of Gail P. Seneca who elected not to be reappointed at the expiration of her term on November 17, 2007.
Ms. Muranishi has indicated her willingness to serve on the Committee if confirmed by the Commission as shown in her declaration dated April 18, 2008 attached to the advice letter. She has stated that she has reviewed, and is in compliance with, the requirements and restrictions on the Committee members not affiliated with PG&E, as contained in the trust agreements for each of the funds. She indicates that she owns no PG&E stocks or securities, except possibly indirectly through a mutual fund, is not an employee, officer, director, or otherwise an agent of PG&E, and has no financial interests that will conflict with the discharge of her duties as a Committee member. She also indicates that her son is employed by PG&E as a regulatory analyst which, in her opinion, will cause no conflict of interest for her.

Ms. Muranishi's work experience and educational background.
Ms. Muranishi's qualifications, as set forth in the Attachment to AL 3252-E, indicate that she is at present the Alameda County Administrator, appointed by the Alameda County Board of Supervisors in December 1995. In this position she is responsible for the management of a large urban county with a population of 1.5 million with over 9,000 county employees and $2.3 billion budget. Included among her diversified duties are budget planning and implementation, risk management, and debt financing. She has been working with the Alameda County in various capacities since 1975. Ms. Muranishi is a Member of the Board of Directors and Advisory Boards of numerous organizations and recipient of distinguished awards and honors. Her BA degree in Social Sciences is from the University of California, Berkeley.

Ms. Muranishi is suitable for the nominated position.
The Energy Division has reviewed Ms. Muranishi's qualifications and professional background and the Commission finds her capabilities and accomplishments impressive and relevant to the intended position.

The Commission further concludes that Ms. Muranishi could be counted on to demonstrate independence, competence, and integrity while serving on the Committee. As a non-affiliated Committee member she should be able to represent the ratepayers and the public, who are intended to be the ultimate beneficiaries of the Trusts.

Ms. Muranishi's starting date.
PG&E has requested May 19, 2008 for the start of Ms. Muranishi's term. We will consider Ms. Muranishi's nomination for a full five year term to start on July 31, 2008, the effective date of this resolution. The Energy Division recommends approval of Ms. Muranishi to serve on the Committee for the five year term July 31, 2008 through July 31, 2013.

Current compensation arrangements are adequate.
The Trust Agreements, in Article 3.06, state:

> Each Committee member who is not an employee, officer, or otherwise an agent of the company shall be entitled to reasonable fees and/or compensation for their services hereunder. At the time a nominee's name is furnished to the CPUC, the company shall furnish to the CPUC a statement in writing, setting forth all proposed fee and/or compensation arrangements with such nominee. The fee and/or compensation arrangements shall be subject to approval by the CPUC.

PG&E's proposed fee for the nominee is the arrangement approved in D.07-01-003 dated January 11, 2007, which is $12,000 per annum retainer, plus $500 for each meeting attended, and reimbursement of reasonable expenses. As the Commission has explicitly determined the compensation arrangement reasonable, the Commission sees no reason to object to them at this time and will allow them to continue.

PG&E should make timely nominations to the Committee.
We are concerned about the long term vacancies created at the Committee lately. In Resolution E-3931, dated May 26, 200**5**, Finding of Fact 6, the Commission found that PG&E should establish an effective tracking system for timely submission of nominations for the Committee's vacancies to avoid future oversights. This finding was made then because PG&E was *a year late* in filling a vacancy at the time; it had left the position open for a whole year leaving the Committee without the benefit of a plenum.

In the present case, PG&E did not submit its request to fill a vacancy until *five* months after the vacancy developed on November 18, 2007.

PG&E's tracking system needs to improve so that Committee vacancy time is reduced or eliminated. PG&E should be approaching Committee members months before their terms are about to expire to ascertain their intention to continue. By engaging the Committee members earlier, PG&E will have more time to find and select a replacement candidate and prepare an advice letter filing before the time the vacancy occurs.

We are concerned that PG&E's Decommissioning Trusts Committee is not having the benefit of full membership consultation over lengthy periods of time because of the delays in filling Committee vacancies. Therefore we will *require* that PG&E discuss with Committee members whose terms are about to expire their intentions to be re-nominated or not at least **six** months prior to the vacancy date and to secure an answer from the Committee member within one month of the initial discussion to insure adequate time for search and selection of a replacement candidate if a vacancy is expected. In any event, PG&E should submit an advice letter to the Commission in sufficient time so that there need not be any vacancy on the Committee. This process will allow for full membership of the Committee all year round.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested, albeit with modifications. PG&E, the only party to this proceeding, has agreed to the starting date of Ms. Muranishi's term of July 31, 2008 and stipulated to a shortened comment period. Accordingly, pursuant to PU Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being reduced.

PG&E submitted comments on July 22, 2008 on two aspects of the Draft Resolution:

> [1] the Draft Resolution's references to the unduly long time between the notification that Ms. Muranishi's predecessor would not seek re-nomination and PG&E filing AL 3252-E are, according to PG&E, misleading and should be removed,
>
> [2] Ordering paragraph [OP] 3 should be removed because it is unlikely to be implementable.

PG&E states that it does communicate with Committee members about their future plans prior to the expiration of their terms and that it is outside of its control whether the incumbent wishes to seek re-nomination until a decision is communicated. PG&E further states that it is unlikely that it or the incumbent can guarantee a definite answer five months prior to the end of the term, as prescribed in OP 3.

PG&E further states that the Commission's concern about vacancies on the Committee is excessive and that given the complexity in filling a vacancy and the time it takes for the Commission to approve PG&E's nominee, brief vacancies are inevitable. PG&E implies that the Trust Agreement contemplates vacancies since it requires only four members to constitute a quorum.

We appreciate PG&E's concern that filling an upcoming vacancy on the Committee is a complex and time-consuming process; that is precisely why PG&E should begin the nomination process as described in OP 3. PG&E claims that even if it starts the process sooner, vacancies are inevitable given the amount of time it takes for Commission approval of its nominee. We recognize that even if PG&E starts its process sooner, a vacancy can still occur for various reasons. Our interest is to reduce the amount of time a vacancy can exist on the Committee. Assuming that PG&E is correct that vacancies are inevitable, that provides even greater justification for it to begin its nomination process sooner so as to minimize the vacancy time as much as possible. In its current AL 3252-E filing, the five month vacancy is too long and PG&E should take the necessary steps as directed in this resolution to improve on that. It is not unreasonable that PG&E initiate a dialogue with outgoing members six months prior to the expiration of their term; nor is it unreasonable to then secure a decision from the member a month after the initial discussion.

FINDINGS

1. PG&E filed AL 3252-E on April 18, 2008 requesting confirmation of Susan S. Muranishi to its committee of nuclear decommissioning trust funds.

2. In D.87-05-062 the Commission required externally managed trust funds to finance the decommissioning of nuclear power plants.

3. The Trust Agreements authorized in Resolution E-3048 provide that a Committee shall direct and manage the Trusts and perform all duties,

including the appointment of trustees and investment managers and the execution of whatever contracts, agreements, or other documents it deems necessary to manage and invest such assets.

4. The Trust Agreements require that PG&E nominate the outside members of the Committee and submit their names to the Commission for confirmation.

5. Ms. Muranishi is well qualified and willing to serve on the Committee.

6. Ms. Muranishi has no conflict of interest that would prevent her from serving as an independent member of the Committee.

7. PG&E should be required to start the process for filling upcoming vacancies on the Committee at least six months beforehand to ensure a full plenum.

8. The fee and compensation arrangements currently applicable to non-company Committee members were established in D.07-01-003 and should continue to apply to the appointment of Ms. Muranishi.

9. There is no opposition to AL 3252-E.

10. The nomination of Ms. Muranishi should be approved for a five year term starting July 31, 2008 through July 31, 2013.

THEREFORE IT IS ORDERED THAT:

1. The nomination of Susan S. Muranishi to serve as non-company member of Pacific Gas and Electric Company's [PG&E] Nuclear Facilities Decommissioning Master Trusts Committee for a term of five years starting July 31, 2008 and ending July 31, 2013 is hereby approved.

2. The current fee and compensation arrangements for non-company members of PG&E's Nuclear Facilities Decommissioning Master Trusts Committee as approved in D. 07-01-003 shall continue until revised through the process set forth in the Trust Agreement.

3. PG&E shall start discussing with potential outgoing Committee members, whose terms are about to expire, their intention to be re-nominated or not at least six months prior to the vacancy date and to secure an answer from the Committee member within one month of the initial discussion. PG&E shall use the remaining time to search for and select a replacement candidate if a vacancy is expected and, in any event, to submit an advice letter to the Commission in sufficient time so that there need not be any vacancy on the Committee.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 31, 2008; the following Commissioners voting favorably thereon:

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Paul Clanon
Executive Director