Decision **PROPOSED DECISION OF ALJ WILSON** (Mailed 8/3/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for modification of Decision 08-10-013 to modify the purposes for which a limited amount of the long-term debt authorization granted in Decision 08-10-013 may be used. (U39M)	Application 10-04-017 (Filed April 9, 2010)

DECISION GRANTING PACIFIC GAS AND ELECTRIC COMPANY'S APPLICATION TO MODIFY DECISION 08-10-013

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1. Summary

This decision authorizes Pacific Gas and Electric Company (PG&E) to utilize long-term debt authority previously authorized in Decision (D.) 08-10-013 for short-term purposes normally chargeable to expenses for terms not to exceed five years and for an amount not to exceed PG&E's current short-term debt authority of $3.5 billion[1] when combined with its outstanding short-term debt. This modified long-term debt will not be considered when calculating PG&E's authorized capital structure. The decision authorizes PG&E to use its long-term debt authorization for short-term purposes, only when it is unable to access short-term debt, or the rate of such short-term debt is more than what it would pay for an issuance of longer than one year.

2. Background

In part, Decision (D.) 08-10-013 authorized Pacific Gas and Electric Company (PG&E) to issue $4 billion of Debt Securities and Preferred Stock. D.09-05-002 authorized PG&E to issue $3.5 billion of unrestricted short-term debt. On April 9, 2010, PG&E filed Application (A.) 10-04-017, requesting authority to modify D.08-10-013. On April 27, 2010, the assigned Administrative Law Judge (ALJ) issued *Administrative Law Judge's Ruling Requiring Applicant to File a Response to Request for Information within 10 Days* (Ruling). On May 7, 2010, PG&E filed *Pacific Gas and Electric Company's (U 39 M) Response to Inquiries of the Administrative Law Judge* (Response). Notice of the application appeared in the Commission's Daily Calendar on April 14, 2010. There were no responses to the

[1] *See* D.09-05-002.

application. On April 22, 2010, Resolution ALJ 176-3252 was issued, preliminarily categorizing this application as ratesetting and that no hearings were needed.

3. Procedural Requirements for Modification of D.08-10-013

Normally, a petition for modification must have been presented within one year of the effective date of the decision. PG&E filed an application to modify instead of a petition for modification of D.08-10-013 because the Commission's Docket Office directed that it file a new application for this purpose instead. PG&E did not file a petition to modify within one year because it had anticipated that the short-term debt market would return to more normal conditions and greater stability by now. PG&E stated that the conditions in the short-term debt market are still unstable and may continue to be so.

4. PG&E's Request

PG&E requests the following modifications to D.08-10-013:

1. The ability to use long-term debt authorized in D.08-10-013 for purposes other than those required by Pub. Util. Code §§ 817 and 818; in particular, for electric energy procurement-related purposes and working capital fluctuations. PG&E proposes to use this long-term debt authority in place of short-term debt authorized in D.09-05-002;
2. The ability to issue the modified long-term debt for a term of one to five years;
3. The combined total of short-term debt and modified long-term debt issued will not exceed the authorized amount of short-term debt of $3.5 billion[2] when combined with its outstanding short-term debt; and

[2] *See* D.09-05-002.

4. PG&E may not include the modified long-term debt in the determination of the long-term debt ratio in its authorized capital structure.

Because it perceives that the short-term debt market is weak and does not have the lending capacity or as reasonable terms and conditions as the long-term debt market, PG&E would like flexibility to utilize some of its long-term debt authority received in D.08-10-013 for short-term purposes normally chargeable to expenses.

In support of this position, PG&E discussed how one of its lenders, Lehman Brothers, went bankrupt and terminated its credit commitment with PG&E, and how other banks that lend to PG&E, such as Citibank and Bank of America, were forced to reduce their debt levels and write down asset values.

PG&E posits that even though the credit market has improved since the height of the financial crisis, banks are still reluctant to extend credit. However, PG&E stated that even though banks are still concerned about lending, it was able to issue 364-day notes to institutional investors through the debt capital markets in June 2009. In its Response, PG&E provided other specific examples from 2008 and 2009 in which its bankers declined to participate in credit facilities in support of bonds and hedging activity.

PG&E also discussed, in general, the cost of bank loans for A-rated borrowers, which went from 75 basis points prior to the financial crisis to a high of 300 basis points over the London Interbank Offer Rate (LIBOR) in early 2009. PG&E's own note issued in June 2009 was issued at 95 basis points over the

LIBOR rates.[3] In its response, PG&E stated that it could not provide any specific terms for short term-debt that it would deem unreasonable, but provided a graph showing a steep increase in bank line of credit rates in general through the fall of 2009, with a gradual reduction to slightly higher than pre-financial crisis levels[4] as of March 2010.

PG&E stated that it does not have access to documentation that lenders do not have the capacity to lend to PG&E on a short term basis, except as noted above. PG&E also provided a graph showing the reduced level of investment grade credit issued by banks to borrowers in general with a "BBB" or higher credit rating during 2008 and 2009. PG&E also suggests that banks have been reluctant to lend, given the higher reserve requirements to account for credit losses as well as the sluggish economy.

PG&E also stated that it has received authorization in the past to use long-term debt authority for payment of expenses. D.00-12-064 authorized the use of long-term Debt Securities to finance a large under collection in its Transition Revenue Account[5] as well as the exclusion of such debt from consideration in the capital structure.[6] D.04-10-037 authorized PG&E to treat selected debt lasting longer than one year as short-term debt.[7]

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[3] PG&E Form 8-K, Exhibit 4-1, Schedule IV, filed June 11, 2009.

[4] October 2008.

[5] *See* D.00-12-064 at 5 and Ordering Paragraphs (OP) 1 and 2.

[6] *See* D.00-12-064 at OP 11.

[7] *See* D.04-10-037 at 12 and OP 2.

As a result of its concerns with the short-term debt market, PG&E requested specific modifications to D.08-10-013 set forth in Attachment A, so that it is able to use long-term debt authority for short-term purposes.

5. Discussion of the Requested Relief

5.1. Cost and Availability of New Short-Term Notes and Bank Loans

In addition to its generic discussion of lender capacity to provide short-term loans, PG&E provided two specific instances in which banks would not participate in its own issuances of short-term bonds and credit commitments, as the reduced level of debt issued by two of its bank lenders, as well as the loss of Lehman Brothers as a lender. PG&E also provided information regarding its June 2009 issuance of short-term debt, for which it paid 95 points more than the 3-month LIBOR rate. In that case, PG&E was able to issue a 364-day note at a much lower spread than the 300 basis points in its generic discussion of the cost of short-term notes and bank loans.

Although the rate charged to PG&E for new short-term debt in its June 2009 or future issues, may not be as high as for the market in general, PG&E has demonstrated that short-term debt may not be available to PG&E when it wants to issue it. Because of this lack of availability, we will authorize PG&E to use its long-term debt authorization for short-term purposes, only when it is unable to access short-term debt, or the rate of such short-term debt is more than what it would pay for an issuance of longer than one year.

5.2. Use of Long-Term Debt Securities for Purposes other than Pub. Util. Code § 817

D.08-10-013 authorized PG&E to issue $4.0 billion of long-term Debt Securities and Preferred Stock. PG&E requested that a portion of that authority be modified for use as short-term debt with a term of issuance of one to five years. As discussed in Section 4 of this decision, the Commission has allowed PG&E to use long-term Debt Securities with terms of more than one year for very specific short-term purposes. Since PG&E has proven that it has faced difficulty accessing short-term debt, we will grant PG&E's request, pursuant to Pub. Util. Code § 818, to use long-term Debt Securities for purposes other than those required by Pub. Util. Code § 817 for the specific purposes it has requested: energy procurement-related purposes and working capital fluctuations.

5.3. Term of Issuances

PG&E requested that its modified long-term Debt Securities be issued for terms of from one to five years. Given that these long-term Debt Securities are taking the place of short-term securities, this range of terms is reasonable and should be adopted.

5.4. Amount of Issuances

PG&E requested that the total of outstanding short-term Debt Securities and the modified long-term Debt Securities not exceed its current short-term authority of $3.5 billion. This would limit the amount of modified long-term Debt Securities issued and does not require an increase in the overall financing authority provided to PG&E. We find this limitation on the amount of modified long-term Debt Securities is reasonable and should be adopted.

5.5. Exclusion from Long-Term Debt Ratio in Capital Structure

PG&E requested that all modified long-term Debt Securities used for purposes chargeable to expense not be included in the calculation of the capital structures' long-term debt ratio for regulatory purposes. PG&E stated that since the function of the securities is chargeable to expense, it should not be treated as long-term debt in the determination of the capital structure ratios. We have authorized such treatment before in D.00-12-064 and do so again here.

5.6. Modification of D.08-10-013 Language

In order to effectuate the changes discussed, PG&E requested modification to D.08-10-013 at 5 and 6, and addition of one new Finding of Fact and four new Conclusions of Law. We find PG&E's proposed modifications and additions to D.08-10-013 to be reasonable. In an effort to better integrate PG&E's proposed language into D.08-10-013, we have made non-substantive revisions to PG&E's modifications and additions. Also, we find that an addition to the Summary section of D.08-10-013 is necessary to identify the revisions to that decision, as well as the addition of OP to approve the various changes we are making. Consistent with this authorization, we will modify D.08-10-013. Conformed versions of the modified D.08-10-013 are set forth in Attachments B (clean version) and C (redlined version) to this decision.

6. Category and Need for Hearing

In Resolution ALJ 176-3252, dated April 22, 2010, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted, as revised herein. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

7. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were received.

8. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

Findings of Fact

1. In D.08-10-013, the Commission authorized PG&E to issue $4.0 billion of Debt Securities and Preferred Stock.

2. In D.09-05-002, the Commission authorized PG&E to issued $3.5 billion of short-term debt.

3. The short-term credit market is weak and short-term lenders, including banks, may not be willing to provide credit at times, or the short-term credit that may be available may be unreasonably priced.

4. Notice of the A.10-04-017 appeared in the Commission's Daily Calendar on April 14, 2010, and no protests were filed.

5. In Resolution ALJ 176-3252, the Commission preliminarily determined that A.10-04-017 should be categorized as ratesetting and that a hearing would not be necessary.

Conclusions of Law

1. PG&E's application to modify D.08-10-013 should be granted with the condition that PG&E shall use its long-term debt authorization for short-term purposes, only when it is unable to access short-term debt, or the rate of such short-term debt is more than what it would pay for an issuance of longer than one year.

2. D.08-10-013 should also be modified to include OP's to approve the modifications we authorize herein.

3. The Commission should issue a modified D.08-10-013 in conformance with the authorization granted herein, as set forth in Attachments B and C to this decision.

4. The modified D.08-10-013 should be cited as "Decision 08-10-013, as modified by Decision 10-xx-xxx."

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's request to modify Decision 08-10-013 is granted.

2. Decision 08-10-013 is modified with the authorization granted herein, as set forth in Attachment B to this decision.

3. Pacific Gas and Electric Company shall use its long-term debt authorization for short-term purposes, only when it is unable to access short-term debt, or the rate of such short-term debt is more than what it would pay for an issuance of longer than one year.

4. The modified Decision 08-10-013 must be cited as "Decision 08-10-013, as modified by Decision 10-xx-xxx."

5. Application 10-04-017 is closed.

This order is effective today.

Dated ____________________________, at San Francisco, California.