

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIAApplication of Pacific Gas and Electric
Company for Modification of Energy Division
Resolution E-3929.

(U 39-E)

Application 05-05-029
(Filed May 31, 2005)**DECISION GRANTING APPLICATION FOR MODIFICATION**

This decision grants the Application filed by Pacific Gas and Electric Company (PG&E) for modification of Energy Division Resolution E-3929 (Application). That resolution dealt with confidentiality of material submitted by PG&E in connection with a contract it entered into with Duke Energy Marketing Americas (the Duke-PG&E contract).

Background

On February 23, 2005, PG&E filed Advice Letter (AL) 2632-E, requesting Commission approval of a three-year physical tolling agreement with Duke Energy Marketing Americas (Duke) concerning purchase of the output of Duke's Morro Bay Generation Units 3 and 4. On April 17, 2005, the Commission adopted Resolution E-3929, that would have protected the confidential appendices supporting AL 2632-E for a period of six months. PG&E filed the Application before us on May 31, 2005, suggesting changes to the Resolution to further protect the confidential information that was filed in support of the advice letter. On October 4, 2005, the Commission's Executive Director granted a suspension of the requirement of Resolution E-3929 until fifteen days after a

decision was made on PG&E's Application. Still later, the Commission issued a decision, Decision (D.) 06-06-066 on June 29, 2006, allowing confidential treatment of certain electric procurement data submitted to the Commission.

Claim of Confidentiality

PG&E contends that D.06-06-066 provides that information addressed in the Resolution should be confidential for a period longer than six months. On November 3, 2006, at the assigned Administrative Law Judge's direction, PG&E supplemented its Application with the *Motion of Pacific Gas and Electric Company (U 39 E) to Seal Portions of the Evidentiary Record* (Motion) addressing how such information should be treated under D.06-06-066.

PG&E contends that certain information filed in support of the advice letter is confidential electric procurement information that should be held in confidence for three years from the date of delivery under the contract, or until one year after expiration, whichever comes first. PG&E sets forth in detail each type of data, and its required treatment under D.06-06-066, in its Motion.

Discussion

D.06-06-066 contains a "Matrix" governing confidentiality of procurement data of investor owned utilities (IOUs) such as PG&E. The decision requires that an IOU show that five elements are present if it wishes its data to be confidential. PG&E has made such a showing in its Motion, as described in the following table:

D.06-06-066 Requirement	How PG&E Meets Requirement
1. That the material it is submitting constitutes a particular type of data listed in the Matrix	PG&E makes this showing in its Motion, which we reproduce in Appendix 1 to this decision.
2. Which category or categories in the Matrix the data correspond to	PG&E makes this showing in its Motion, which we reproduce in Appendix 1 to this decision.
3. That the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	PG&E proposes confidential treatment of the data listed for three years from the data of delivery under the contract, or until one year after expiration, whichever comes first, consistent with the Matrix.
4. That the information is not already public	PG&E states the information is not already public.
5. That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure	PG&E made summary data public in Appendix B to its advice letter, (including location, megawatts and resource type), as well as Duke's request for bids.

We find that PG&E has justified confidential treatment of the data addressed in its Motion pursuant to D.06-06-066. Releasing the confidential data as described in Resolution E-3929 would not serve the public interest and would be contrary to the Commission's other decisions and customers' interests. Thus, we grant PG&E's Application and Motion.

Categorization and Need for Hearings

In Resolution ALJ 176-3154, dated June 16, 2005, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily

determined that hearings were not necessary. Based on the record, we conclude that it is not necessary to alter the preliminary determinations in Resolution ALJ 176-3154.

Comments on Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Sarah R. Thomas is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The data in Appendix 1 to this decision constitute the type of data listed in the Matrix to D.06-06-066.
2. The data PG&E contends should be confidential match D.06-06-066 Matrix categories as set forth in Appendix 1 to this decision.
3. PG&E is complying with the limitations on confidentiality specified in the Matrix for that type of data.
4. The data addressed in Appendix 1 is not already public.
5. PG&E has released certain of the data in summary form.

Conclusions of Law

1. PG&E has met its burden of proof of establishing entitlement to confidentiality under D.06-06-066.

2. The data in Appendix 1 to this decision should be confidential for three years from the date of delivery under the Duke-PG&E contract, or until one year after contract expiration, whichever comes first.

3. PG&E's Application and Motion should be granted as set forth in this decision.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's (PG&E) Application for modification of Energy Division Resolution E-3929 is granted as set forth below.

2. The data listed in Appendix 1 to this decision and filed by PG&E with Advice Letter 2632-E and addressed in Resolution E-3929 shall be confidential for three years from the date of delivery under the three-year physical tolling agreement with Duke Energy Marketing Americas addressed in those materials, or until one year after contract expiration, whichever comes first.

3. Once the confidentiality protections expire, anyone seeking access to the data may obtain it from the Commission files.

4. Application 05-05-029 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX 1

Portion of Record	Matrix Category/Categories
Confidential Appendix A (Master Power Purchase and Sale Agreement dated February 22, 2005 between PG&E and Duke.	D.06-06-066 Appendix 1, Section VII (B and E)
Confidential Appendix C (Procurement Review Group Minutes and Presentations)	D.06-06-066 Appendix 1, Section VIII (B)
Confidential Appendix D (URMC memoranda)	D.06-06-066 Appendix 1, Section VIII (B)

(END OF APPENDIX 1)