

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
I.D.# 8542
ENERGY DIVISION RESOLUTION E-4239
June 4, 2009

R E S O L U T I O N

Resolution E-4239. Pacific Gas and Electric Company [PG&E] requests confirmation of the *re*appointment of DeWitt F. Bowman to serve on its Committee of Nuclear Decommissioning Trust Funds.

Request Approved.

By Advice Letter 3426-E, filed on February 26, 2009.

SUMMARY

PG&E's re-nomination of Mr. Bowman is approved.

This Resolution confirms the reappointment of DeWitt F. Bowman to serve a five year term on PG&E's Nuclear Facilities Decommissioning Master Trust Committee [the Committee] starting June 4, 2009.

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 Internal Revenue Code [Qualified Trust] and another 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's confirmation of Mr. Bowman as a Committee member not affiliated with PG&E, in accordance with the provisions of the Trusts. The re-nomination of Mr. Bowman to serve for five years has been confirmed by PG&E's Board of Directors on February 18, 2009.

NOTICE

PG&E mailed copies of AL 3426-E to parties listed in the advice letter in accordance with General Order 96A. Notice of the advice letter appeared on the Commission's Daily Calendar.

PROTESTS

Advice Letter 3426-E was not protested.

DISCUSSION

This will be Bowman's fourth nomination.

Bowman has served two five-year terms starting on May 2, 1994 and 1999, and a four-year term starting on May 2, 2005. By AL 3426-E, PG&E is re-nominating Bowman to continue serving as nonaffiliated Committee member of the Trusts for additional term of five years. Bowman has indicated his willingness to serve on the Committee if confirmed by the Commission as shown in his declaration dated February 26, 2009 attached to the advice letter. In that declaration he states that he has reviewed the requirements and restrictions on the Committee

members not affiliated with PG&E, as contained in the trust agreement for each of the funds.

Bowman has no conflict of interest.

Mr. Bowman indicates in his declaration that he owns no PG&E stock or securities, 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 his duties as a Committee member.

Bowman is suitable for the nominated position.

Mr. Bowman is a Chartered Financial Analyst and former Chief Investment Officer of CalPERS [1989-1994] and San Francisco Employees Retirement System [1984-1989]. His achievements include holding high ranking positions in the First Wisconsin Bank [1957-1973]. Since May 1994 he has demonstrated independence, competence, and integrity serving on the Committee. The Energy Division has reviewed the qualifications of Mr. Bowman and recommends approval of Bowman for an additional five-year term starting on June 4, 2009.

Current compensation arrangements are adequate.

The Trust Agreements, in Article 3.6 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 a retainer of \$12,000 per annum, plus \$500 for each meeting attended, and reimbursement of reasonable expenses. As the Commission has explicitly determined the compensation arrangement reasonable, we see no reason to object to them at this time and will allow them to continue.

COMMENTS

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

FINDINGS

1. PG&E filed AL 3426-E on February 26, 2009 requesting confirmation of DeWitt F. Bowman 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 funds.
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. Mr. Bowman is well qualified and willing to serve on the Committee.
6. Mr. Bowman has no conflict of interest that would prevent him from serving as an independent member of the Committee.
7. 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 Mr. Bowman.
8. There is no opposition to AL 3426-E.
9. The nomination of Mr. Bowman should be approved for a five year term starting June 4, 2009

THEREFORE IT IS ORDERED THAT:

1. The nomination of DeWitt F. Bowman 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 on June 4, 2009 and ending on June 3, 2014 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. 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 June 4, 2009; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director