

Decision 08-10-013 October 2, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY to issue, sell, and deliver one or more series of Debt Securities and to guarantee the obligations of others in respect to the issuance of Debt Securities, the total aggregate principal amount of such long-term indebtedness and guarantees not to exceed \$4.0 billion; to execute and deliver one or more indentures; to sell, lease, assign, mortgage, or otherwise dispose of or encumber utility property; to issue, sell and deliver in one or more series, cumulative Preferred Stock -- \$25 Par Value, Preferred Stock -- \$100 Par Value, Preference Stock or any combination thereof; to utilize various debt enhancement features; enter into interest rate hedges; and for an exemption from the Commission's Competitive Bidding Rule. (U39M)

Application 08-05-033
(Filed May 22, 2008)

**DECISION AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY
TO ISSUANCE UP TO \$4.0 BILLION OF DEBT AND PREFERRED STOCK**

1. Summary

This decision grants Pacific Gas and Electric Company (PG&E) the authority to issue \$4 billion of Debt Securities consisting of long-term debt and preferred stock, as requested in Application (A.) 08-05-033. This decision also authorizes PG&E to: encumber utility property, including its accounts receivable, to secure Debt Securities; enter into interest-rate caps, collars, swaps, hedges, and other financial instruments (collectively, hedges) subject to the conditions enumerated in the body of this decision; exempt certain Debt Securities from the

Commission's Competitive Bidding Rule as enumerated in the body of this order; exclude credit enhancements that do not increase the amount of debt owed by PG&E from the determination of its outstanding debt; and, report all Debt Securities information required by General Order (GO) 24-B to the Commission on a quarterly basis.

2. Request

PG&E seeks authorization to issues \$4.0 billion of Debt Securities, including preferred stock, until the aggregate principal amount authorized has been fully utilized. PG&E intends to utilize debt enhancement features to improve the terms and conditions of the Debt Securities and to lower its overall cost of money for the benefit of its ratepayers. As detailed in its application, these enhancement features include credit enhancements, redemption provisions, put options, sinking funds, tax-exempt financing, and warrants.

PG&E also seeks authorization to utilize its accounts receivable to secure Debt Securities and use swaps and hedges to manage interest rate risk. Finally, PG&E seeks an exemption from the Commission's Competitive Bid Rule and modification to the GO 24-B Debt Securities reporting requirement.

3. Discussion

The principal amount, form and terms and conditions of each series of Debt Securities will be determined by PG&E's board of directors or management according to market conditions at the time of sale or issuance. The Debt Securities may bear a fixed, floating or variable rate of interest and may be issued at par or with an original issue discount or premium. Preferred securities may have either mandatory or optional redemption features. PG&E may issue Debt Securities directly or may issue them through an affiliate that will in turn lend or otherwise transfer the proceeds to or for the benefit of PG&E.

The types of Debt Securities that PG&E proposes to issue are similar to those authorized in Decision (D.) 06-06-019, dated June 16, 2006. Those Debt Securities detailed in PG&E's application consist of:

1. Secured Debt Securities in the form of First Mortgage Bonds.
2. Unsecured Debt Securities such as debentures and notes.
3. Overseas Indebtedness sold to foreign investors that would be denominated in U.S. dollars or foreign currencies.
4. Preferred Securities issued by a subsidiary.
5. Foreign Currency Denominated Securities.
6. Medium-term Notes.
7. Direct Loans obtained from financial institutions such as banks and insurance companies.
8. Accounts Receivable Financing.
9. Variable-Rate Debt based on short-term interest rate indices, bankers' acceptances, PG&E's credit ratings, or other factors.
10. Preferred Stock.

PG&E also seeks authority to issue hybrid securities. Hybrid securities are securities that have characteristics of both debt and equity securities. The advantage of these securities over a traditional mix of debt and equity financing is that based on recent guidance by the Internal revenue Service and rating agencies, most new issuances are structured such that the dividends are tax-deductible to the issuer and the securities are treated, in part, like equity by the rating agencies.

Hybrid securities may be issued as subordinated debt directly to the public or structured as a trust preferred security, with PG&E issuing subordinated debt to a subsidiary, generally in the form of a trust, and the trust issuing preferred

securities to the public. The terms of hybrid securities may include, but will not be limited to: (i) restrictive redemption provisions, including, but not limited to, capital replacement provisions, (ii) interest rates which may be fixed, floating, adjustable, deferred or which may be set by a market auction procedure, (iii) mandatory sinking funds, and (iv) such other provisions as PG&E may deem appropriate in connection with its issuance and sale of hybrid securities. Hybrid securities may be registered with the Securities and Exchange Commission and may be listed on a stock exchange. Hybrid securities were previously approved for use by Southern California Edison Company pursuant to D.07-05-018.

PG&E has estimated its requirements for issuance of long-term debt securities and preferred stock based largely on financing needs driven by capital expenditure forecast from 2008 through 2011. The estimated requirements included uses of funds such as capital expenditures and maturing debt obligations, as well as sources of funds such as cash flow from operations. The current forecast of annual capital expenditures averages approximately \$3.6 billion through 2011. These expenditures include infrastructure replacements and upgrades to gas and electric transmission and distribution facilities, as well as to PG&E's retained generation assets. Not included in the forecast are additional generation facilities that PG&E may build rather than acquiring through power purchase contracts, new generation or transmission projects that may be required to meet renewable portfolio or greenhouse gas standards, and expansion of its gas pipeline infrastructure to connect to new gas supplies such as liquefied natural gas.

PG&E estimated that it will need approximately \$5.7 billion in long-term debt between 2008 and 2011, of which \$600 million has been issued to date. This need is driven by planned funding for capital expenditures as well as by the

potential need to reissue \$454 million in tax-exempt bonds that PG&E recently repurchased due to increased interest rates caused by the turmoil in the auction-rate securities market. PG&E's \$1.7 billion long-term debt currently authorized but unissued is insufficient to meet its ongoing capital spending requirements, replace maturing debt, and redeem debt and preferred stock. Hence, PG&E seeks authorization to issue \$4.0 billion of Debt Securities to provide sufficient flexibility to enable it to meet its financial and service obligations through 2011.

PG&E expects that it will not use more than \$3,046,450,000 of the proposed \$4 billion financing proceeds for construction expenditures and acquisition of property or to reimburse PG&E for money it has expended for those purposes. The remaining \$953,550,000 of proposed financing proceeds is expected to be used for the retirement, refunding or reissuance of securities previously issued.

4. Approvals

PG&E's request to issue Debt Securities, including preferred stock, is subject to §§ 816, *et seq.* of the Public Utilities Code.¹ The Commission has broad discretion under §§ 816, *et seq.* to determine if a utility should be authorized to issue debt and preferred stock. Where necessary and appropriate, the Commission may attach conditions to the issuance of debt and preferred stock to protect and promote the public interest.

4.1. Issuance of Debt Securities

PG&E has substantiated that its \$4.0 billion Debt Securities request is necessary to satisfy its 2008 -2011 needs for financing capital expenditures, acquiring property, and retiring or refunding securities. These purposes are

¹ All statutory references are to the Public Utilities Code unless otherwise stated.

authorized by § 817 and, as required by § 818, are not reasonably chargeable to operating expenses or income. Therefore, we will grant PG&E authority under § 816, *et seq.* to issue to \$4.0 billion of long-term debt and preferred stock for the aforementioned purposes, as detailed in the application.

Consistent with § 824, PG&E shall maintain records to identify the specific long-term debt and preferred stock issued pursuant to this Decision, and demonstrate that proceeds from such debt and preferred stock have been used only for the purposes authorized by today's Decision.

PG&E may allocate the authorized debt and preferred stock among the authorized purposes as PG&E deems necessary. PG&E may also issue any combination of long-term debt and preferred stock, as long as the total amount issued pursuant to this Decision does not exceed \$4.0 billion.

4.2. Encumbrance of Utility Property

PG&E seeks authority to use its accounts receivable to secure Debt Securities. This request to encumber utility property is subject to § 851 which states, in relevant part, that no utility shall encumber any part its plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or right there-under without first having secured from the commission an order authorizing it to do so.

Consistent with previous Commission decisions, we will authorize PG&E to encumber its accounts receivables to improve the terms and conditions of the Debt Securities and to lower PG&E's overall cost of money for the benefit of ratepayers.²

² See, for example, D.05-04-003 (2005) *mimeo.*, p. 10, Ordering Paragraph 4.

4.3. Swap and Hedging Requirements

PG&E seeks authority to use swaps and hedges to manage interest rate risk, by issuing fixed or floating rate debt and entering into one or a series of interest rate swap contracts to convert fixed interest payments into floating rate payments or vice versa, or to convert floating rate payments tied to one index (*e.g.*, London Interbank Offer Rate into floating rate payments tied to another index (*e.g.*, the Federal Reserve Composite Rate for Commercial Paper). When the resulting interest rate note is lower than PG&E could have obtained by issuing a comparable security directly, the result is a savings for ratepayers.

Swaps may be denominated in U.S. dollars or in a foreign currency. When PG&E enters into a swap denominated in a foreign currency, any exchange risk will be hedged through one or more forward contracts or through a currency swap. Swaps would be negotiated with a major financial intermediary (like a commercial bank) or directly with a principal seeking the other side of the swap transaction. The swap contract may specify that the exchange of interest payments will commence either immediately or at a future date.

Contract for hedging future issuances take various forms, including Treasury lock, cap, and collar agreements. Treasury lock agreements are used to “lock-in” the forward rate of a specified Treasury or other security on which a fixed rate debt financing will be priced at a specific date in the future. Treasury collars and cap agreements are used to limit the maximum interest cost of a debt instrument using the forward rate of a specified Treasury or other security on which a fixed rate debt issuance will be priced at a specified date in the future. In addition to these contracts which hedge the underlying Treasury rate or other index upon which debt issuances are priced, there are also contracts which hedge

the overall cost of a debt issuance, not just the underlying index rate. These hedges are accomplished through the use of forward starting swaps, whereby an issuer contracts to pay a predetermined rate at a specified date in the future.

PG&E also requests that these swaps and hedges not be counted against its authorized debt, since these hedges would not affect the amount of the underlying debt issued.

The terms and conditions of swaps and hedges will be determined by PG&E based on market conditions at the time such transactions are negotiated. PG&E will enter into these swap and hedging contracts only when a future financing is clearly required, such as replacement of a maturing issue.

PG&E proposes to comply with the following restrictions regarding swap and hedging transactions entered into pursuant to this Application:

1. Separately report all interest income and expense (as recorded for ratemaking purposes) arising from all hedging transactions in its regular report to the Commission.
2. Swap and hedging transactions will not exceed at any time 20% of PG&E's total long-term debt outstanding.
3. All costs associated with swap or hedging transactions shall be subject to review in PG&E's cost of capital proceedings or other appropriate proceedings.
4. Swap and hedging transactions carrying potential counterparty risk must have counterparties with investment grade credit ratings.
5. PG&E will provide the following to Commission staff within 30 days of a request: (i) all terms, conditions, and other details of swap and hedge transactions; (ii) rationale for the hedge transactions; (iii) estimated costs for the "alternative" or unhedged transactions; and (iv) copy of the swap and/or hedging agreements and associated documentation.

Consistent with previous Commission decisions,³ we will authorize PG&E to use swaps and hedges subject to the above agreed upon conditions. We also conditionally grant PG&E's request to not count hedges as outstanding debt.⁴ Specifically, we will not count hedges against PG&E's authorized debt to the extent the hedges are both recorded as a liability in accordance with generally accepted accounting principles (GAAP), and deemed effective under GAAP in offsetting changes to the fair value or cash flows of the risks being hedged. On the other hand, hedges will be counted against PG&E's authorized debt to the extent they are recorded as liability in accordance with GAAP, but are not deemed effective under GAAP in offsetting changes to the fair value or cash flows associated with the risks being hedged.

4.4. Competitive Bidding Rule Exemption

Resolution No. F-616, issued on October 1, 1986, requires utilities to issue debt using competitive bids. The purpose of this requirement, known as the Competitive Bidding Rule, is to reduce the cost of debt issued by utilities. The Resolution also provides for utilities to seek an exemption from the Competitive Bidding Rule for debt issues in excess of \$200 million. An exemption request will only be granted upon a compelling showing by a utility that because of the size of the issues, an exemption is warranted.

PG&E seeks an exemption from the Competitive Bidding Rule on the basis that:

³ See, for example, D.95-09-023, D.96-05-066, and D.03-12-004.

⁴ Consistent with D.02-11-030, Footnote 13, any debt issued by PG&E as part of a transaction involving an interest-rate swap shall be used to determine the amount of authorized and outstanding debt.

1. Competitively bidding larger issues may result in higher costs due to the fragmenting of the investment banking community into competitive bidding syndicates and the increased risk thereby assumed by each of them.
2. The competitive bidding process is fundamentally designed for highly rated, well-known issuers who do not need to avail themselves of the opportunities for communicating to, and receiving market intelligence from, the investment community in order to achieve a successful offering.
3. Competitive bidding may leave PG&E limited and undesirable options for obtaining needed financing.

PG&E requests that the following Debt Securities also be exempted from the Competitive Bidding Rule because they are typically issued through negotiated arrangements: notes sold through a placement agent on a reasonable efforts basis; trust preferred and hybrid securities; accounts receivable financings; overseas indebtedness; foreign currency securities; notes; tax-exempt securities, and interest-rate hedges. However, it will, pursuant to the Competitive Bidding Rule, offer through competitive bidding other fixed-rate Debt Securities in the form of First and refunding mortgage bonds, intermediate and long-term notes, and debentures of \$200 million or less in principal amount (other than tax-exempt securities) that are sold publicly in the domestic market.⁵

To provide added flexibility to take advantage of market opportunities, PG&E requests that the Commission grant them an exemption from the

⁵ Because the Competitive Bidding Rule applies only to utilities that have ratings of "A" or higher, PG&E does not intend to, necessarily, competitively bid such fixed rate bonds and debentures, until such time as it meets the minimum bond rating threshold.

Competitive Bidding Rule to permit PG&E to use the following procedures for those situations where the Rule remains applicable:

1. To shorten the time between the issuance of an invitation for bids and the scheduled receipt of bids to a period which is the shortest time reasonably required to obtaining a sufficient number of bids from underwriters or purchasers or groups thereof (which time period may be as short as a few hours).
2. To accelerate, postpone, or cancel the scheduled date and time for receipt of bids.
3. To reject all bids submitted.
4. To request the resubmission of bids.
5. To reschedule subsequent receipt of bids.
6. To vary the amount, terms, and conditions of the Debt Securities submitted for bids.
7. To waive the requirement for newspaper publication of the above items.

PG&E's request for the previously described exemptions from, the Competitive Bidding Rule is granted on the basis that the Commission has routinely granted PG&E and other utilities similar exemptions⁶ with no discernable adverse impacts on the utilities, their customers, or the public at large; and on PG&E's representation that granting the exemptions will enable it to obtain debt in a manner advantageous to PG&E and its ratepayers. We make no finding regarding the reasonableness of the rates, terms, and conditions of debt issued by PG&E pursuant to the exemptions granted herein.

⁶ See, for example, D.04-10-037 (2004) *mimeo.*, pp. 50-51; and D.03-12-004, *mimeo.*, pp. 32-33.

4.5. Reporting Requirement

GO 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (i) the amount of debt and preferred stock issued by the utility during the previous month; (ii) the total amount of debt and preferred stock outstanding at the end of the prior month; (iii) the purposes for which the utility expended the proceeds realized from the issuance of debt and preferred stock during the prior month; and (iv) a monthly statement of the separate bank account that the utility is required to maintain for all receipts and disbursements of money obtained from the issuance of debt and preferred stock.

PG&E seeks authority to report quarterly, instead of monthly, the information required by GO 24-B in order to reduce its administrative cost of complying with the GO and to conform to past practice. This reporting request is reasonable and consistent with past Commission practice.⁷ PG&E may report quarterly to the Commission the information required by GO 24-B.

5. Fee

Whenever the Commission authorizes a utility to issue debt and preferred stock, the Commission is required to charge and collect a fee pursuant to §§ 1904(b) and 1904.1. A fee is not applicable on any such issues used to guarantee, take over, refund, discharge, or retire any stock, bond, note, or other evidence of indebtedness on which a fee has theretofore been paid to the Commission. (§ 1904.1.)

⁷ See, for example, D.04-10-037 (2004) *mimeo.*, p. 51; and, D.03-12-052 (2003) *mimeo.*, pp. 11-12.

PG&E expects to use \$3,046,450,000 of its \$4 billion debt proceeds for construction expenditures and acquisition of property or to reimburse PG&E for money it has expended for those purposes. The remaining \$953,550,000 of its requested debt instruments is expected to be used to retire, refund or reissue securities previously issued upon which PG&E has previously paid the fees prescribed by § 1904.

PG&E shall remit the required \$1,529,225 fee to the Commission's Fiscal Office.⁸ If PG&E uses any of the \$953,550,000 for purposes other than the retirement, refund or reissuance of securities previously issued, it shall notify the Commission in writing and pay the appropriate fee.

6. California Environmental Quality Act

Under the California Environmental Quality Act (CEQA) and Rule 2.4 of the Commission's Rules of Practice and Procedure (Rules), we must consider the environmental consequences of projects that are subject to our discretionary approval.⁹ Thus, we must consider whether approval of this application will alter an approved project, result in new projects or change operations in ways that have an environmental impact.

This decision does not authorize any capital expenditures or construction projects. New construction projects which PG&E intends to finance via this application should undergo a CEQA review as early as feasible in the planning

⁸ The fee is assessed on \$3,046,450,000 of authorized Debt Securities as follows: (\$2 times (\$1,000,000/\$1,000) plus (\$1 times \$9,000,000/\$1,000 plus \$0.5 times \$3,036,450,000/\$1,000 equals \$1,529,225. The remaining \$953,550,000 of the total \$4.0 billion Debt Securities being authorized is excluded from the fee calculation to the extent PG&E uses that debt to retire and refund securities previously charged a fee.

⁹ Pub. Resources Code Section 21080.

process, as required by CEQA Guidelines Section 15004(b). Ongoing projects have already been subject to any necessary CEQA review undertaken prior to PG&E receiving a certificate of public convenience and necessity or permit to construct. To the extent capital expenditures are financed with the proceeds of the long-term debt and preferred stock issued pursuant to this decision, CEQA review should occur as needed through the regulatory processes applicable to each capital project.

7. Categorization and Need for Hearing

PG&E requested that this matter be categorized as ratesetting. By Resolution ALJ 176-3215, dated June 12, 2008, the Commission preliminarily determined that this was a ratesetting proceeding and that a hearing would not be necessary.

Notice of the application appeared in the Commission's Daily Calendar of May 29, 2008. A protest to this application was filed by the Division of Ratepayer Advocates (DRA) on June 27, 2008. DRA asserted that PG&E was seeking overbroad authority to act, in the absence of support as to why such authority is necessary or appropriate, and fails to justify reasons for a waiver of the Commission's competitive bidding rules.

Subsequently, on August 1, 2008, DRA withdrew its protest based on meeting it had with PG&E. PG&E clarified that it only seeks § 851 authorization in this proceeding for the purposes of the financing alternatives described in the application. Other types of transfers, such as sales of facilities, would require separate § 851 applications. PG&E also substantiated to DRA that a majority (over 95%) of recent investor owned utility financings were negotiated rather than competitively bid because of the practical cost efficiencies involved in negotiated placements.

There were no other protests to this application. With DRA's withdraw of its protest we affirm that this is a ratesetting proceeding, and that a hearing is not necessary.

8. Waiver of Comment Period

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

Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Michael J. Galvin is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. PG&E requests authority to issue \$4 billion of Debt Securities.
2. DRA filed a protest to the application and subsequently withdrew its protest.
3. PG&E and DRA were the only parties to this proceeding.
4. PG&E has a reasonable need to issue \$4.0 billion of long-term debt and preferred stock during 2008 - 2011 to finance capital expenditures, replace maturing debt, and redeem debt and preferred stock.
5. PG&E requests authority under § 851 to issue First and refunding mortgage bonds and to use its accounts receivable to secure its debt.
6. PG&E requests authority to issue many different types of Debt Securities and preferred stock using a wide variety of means.
7. PG&E requests that credit enhancements not be counted against its authorized debt.

8. PG&E requests authority to use swaps and hedges to manage the risks associated with interest rate volatility. PG&E also requests that its use of these financial instruments not be counted against its authorized debt.

9. Resolution F-616 requires utilities to issue debt using competitive bids. The Resolution also provides for exemptions from the Competitive Bidding Rule for debt issues in excess of \$200 million and debt that must be obtained on a negotiated basis such as variable-rate debt.

10. PG&E represents that granting the requested exemptions from the Competitive Bidding Rule will enable PG&E to obtain debt in a manner that is advantageous to PG&E and its ratepayers.

11. GO 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (i) the amount of debt and preferred stock issued by the utility during the previous month; (ii) the total amount of debt and preferred stock outstanding at the end of the prior month; (iii) the purposes for which the utility expended the proceeds realized from the issuance of debt and preferred stock during the prior month; and (iv) a monthly statement of the separate bank account that the utility is required to maintain for all receipts and disbursements of money obtained from the issuance of debt and preferred stock.

12. To minimize administrative costs, PG&E requests permission to report to the Commission on a quarterly basis all the information required by GO 24-B for any debt and preferred stock issued by PG&E pursuant to this Decision.

13. The Commission has routinely authorized utilities to report on a quarterly basis the information required by GO 24-B in order to reduce the utilities' administrative and compliance costs.

14. A.08-05-033 does not propose, and today's Decision does not authorize, any specific new construction or changes in use of existing assets and facilities.

15. The debt costs associated with the is decision may be subject to review in PG&E's cost of capital or other appropriate proceedings.

16. Notice of A.08-05-033 appeared in the Commission's Daily Calendar.

17. In Resolution ALJ 176-3215, issued on June 12, 2008, the Commission preliminarily determined that this proceeding should be categorized as ratesetting and that hearings would not be necessary.

Conclusions of Law

1. This is a ratesetting proceeding.
2. There is no need for hearings.
3. The application should be granted as requested.
4. The authority granted by this Decision should not become effective until PG&E has paid the fees prescribed by §§ 1904(b) and 1904.1.
5. PG&E should not use the proceeds from the debt and preferred stock authorized by this Decision to fund capital projects until PG&E has obtained any required Commission approvals for the projects, including any required environmental review under CEQA.
6. The following Order should be effective immediately so that PG&E may issue as soon as needed the debt and preferred stock authorized herein.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) is authorized to issue \$4.0 billion of new long-term debt and preferred stock to finance capital expenditures, replace maturing debt, and to redeem debt and preferred stock, as contemplated in Application 08-05-033.

2. PG&E may encumber utility property, including accounts receivables, to secure Debt Securities authorized by this order.

3. PG&E may guarantee the Debt Securities of regulated direct or indirect subsidiaries or affiliates of PG&E or of government entities that issue Debt Securities on behalf of PG&E.

4. Credit enhancements authorized by this Order shall not count against the amount of debt authorized by this Order so long as there is no possibility that such credit enhancements will ever increase the amount of PG&E's debt obligations.

5. PG&E may enter into interest-rate caps, collars, swaps, hedges, and other financial instruments to manage interest rate risks (collectively, "hedges") to the extent that PG&E complies with the conditions enumerated in the body of this Order.

6. The following types of debt issued by PG&E pursuant to this Order are exempt from the Competitive Bidding Rule set forth in Resolution F-616: debt with a principal amount greater than \$200 million, variable-rate debt securities; notes sold through a placement agent on a reasonable efforts basis; trust preferred securities and hybrid securities; accounts receivable financings; overseas indebtedness; foreign currency securities; notes; tax-exempt securities; and, interest-rate hedges.

7. PG&E is authorized to do the following in those situations where the Competitive Bidding Rule remains applicable:

- i. To shorten the time between the issuance of an invitation for bids and the receipt of bids to a period that is the shortest time reasonably required to obtain a sufficient number of bids from underwriters, purchasers, or groups thereof.

- ii. To accelerate, postpone, or cancel the scheduled date and time for receipt of bids.
- iii. To reject all bids submitted.
- iv. To request the resubmission of bids.
- v. To reschedule subsequent receipt of bids.
- vi. To vary the amount, terms, and conditions of the Debt Securities submitted for bids.
- vii. To waive the requirement for newspaper publication of the above items.

8. PG&E shall provide compelling evidence to substantiate future exemption requests from the competitive bidding rule.

9. PG&E may report on a quarterly basis all the information required by General Order 24-B with respect to debt and preferred stock issued pursuant to this Order. PG&E shall report this information on a monthly basis if directed to do so by Commission staff.

10. PG&E shall pay a fee on \$3,046,450,000 of its new \$4.0 billion Debt securities (\$4.0 billion less \$953,550,000 earmarked to retire, refund or reissuance of securities previously issued.) If PG&E actually uses any of the \$953,550,000 for purposes other than the retirement, refund or reissuance of securities previously issued, it shall notify the Commission in writing, pay the corresponding fee, and identify in its next Debt Securities report after issuance how it used the \$953,550,000 of long-term debt earmarked to replace existing long-term debt.

11. PG&E shall remit to the Commission's Fiscal Office a check for \$1,529,225 as required by § 1904(b) of the Public Utilities Code. The decision number of this Order shall appear on the face of the check.

12. The authority granted by this Order shall not become effective until PG&E remits \$1,529,225 to the Commission's Fiscal Office.

13. PG&E shall comply with all applicable environmental laws and regulations when planning and implementing any capital expenditure programs that are financed, in whole or in part, with the proceeds from the debt and preferred stock authorized by this Order.

14. Application 08-05-003 is closed.

This order is effective today.

Dated October 2, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

Commissioners

I will file a dissent.

/s/ TIMOTHY ALAN SIMON

Commissioner

D.08-10-013/A.08-05-033

D.08-10-014/A.08-06-012

D.08-10-015/A.08-06-013

Commissioner Timothy Alan Simon's Dissent to October 2, 2008 Public Agenda 3222, Agenda Items 25 [A08-05-033], 26 [A08-06-012], and 27 [A08-06-013].

I am dissenting on Agenda item 25 because I have some concerns about PG&E's Application¹, and about utility requests for exemptions on competitive bidding for debt securities and preferred stock securities offerings in general. My comments are therefore also applicable to Agenda items 26 and 27, respectively, which were filed by Southern California Edison.² As a professor of law and securities regulation, I recognize that utilities clearly need access to capital to finance operating capital, facilities upgrades, and other critical infrastructure projects. In addition, I do not want to postpone judgment on these matters given the distressed and uncertain state of our financial markets. Nevertheless, my concerns with these Applications are threefold:

¹ Application of Pacific Gas and Electric Company to issue, sell, and deliver one or more series of Debt Securities and to guarantee the obligations of others in respect of the issuance of Debt Securities, the total aggregate principal amount of such long-term indebtedness and guarantees not to exceed \$4.0 billion; to execute and deliver one or more indentures; to sell, lease, assign, mortgage, or otherwise dispose of or encumber utility property; to issue, sell and deliver in one or more series, cumulative Preferred Stock -- \$25 Par Value, Preferred Stock -- \$100 Par Value, Preference Stock or any combination thereof; to utilize various debt enhancement features; enter into interest rate hedges; and for an exemption from the Commission's Competitive Bidding Rule (A.08-05-033), May 22, 2008.

² See Application of Southern California Edison Company (U338-E), a corporation, for modification of Decision No. 00-10-040, as previously modified by Decision Nos. 01-01-021, 02-01-061, 05-11-013 and 06-11-012 (A.08-06-012), June 10, 2008; Application of Southern California Edison Company for Modification of Decision No. 05-06-020 (A.08-06-013), June 10, 2008.

D.08-10-013/A.08-05-033

D.08-10-014/A.08-06-012

D.08-10-015/A.08-06-013

First, PG&E's request to issue \$4.0 billion in long-term debt and preferred stock is based on a three-year projection of capital expenditure requirements. Locking in non-competitive financing terms for such a large offering request over a lengthy period of time may not be in the best interest of ratepayers when a better deal could be obtained if this large offering was submitted in pieces to take advantage of fluctuating and potentially better market conditions prior to 2011.

This brings me to my second concern. The exemptions granted under the Competitive Bidding Rule in Resolution F-616 require a "conclusive showing by a utility that an exemption would be in the best interest of ratepayers."³ In their Application, PG&E has not provided sufficient evidence to demonstrate that their negotiated deal is superior to competitive bidding. Rather, PG&E ostensibly assumes that competitive bidding may result in higher costs due to the fragmentation of the investment banking industry into competing syndicates that would face increased risk. While negotiated bids in extraordinary circumstances can be favorable, there is a competing school of thought that competitive bidding should result in the lowest, most efficient market prices and fees for these securities. Furthermore, many of PG&E's concerns with competitive bidding appear to be based not on record evidence or a showing of comparative market data, but on banking industry status quo assumptions that may or may not hold true.

Third, while I am pleased to see PG&E and our other regulated utilities make progress toward achieving our General Order 156 goals, I would like to challenge them to proactively continue to procure financial services from

³ See Resolution No. F-616, Exhibit A: Report on the California Public Utilities Commission's Competitive Bidding Rule for Issuance of Securities, September 5, 1986, at 2.

D.08-10-013/A.08-05-033

D.08-10-014/A.08-06-012

D.08-10-015/A.08-06-013

emerging firms, including, but not limited to, WMDVBE or otherwise. Many emerging firms are significant participants on Wall Street and should be given the opportunity to compete for California's regulated utility financial services. I look forward to working together with our regulated utilities to ensure that we rise to this challenge of creating business opportunities for these firms. This is a relevant and timely concern as we find our financial markets highly distressed, with entrenched banks and other major institutions failing or teetering on the edge of collapse. The status quo is clearly not working.

Finally, I understand that it has been Commission practice to routinely grant exemptions to the Competitive Bidding Rule since the adoption of Resolution F-616 on October 1, 1986. This practice calls into question whether this rule is effective or necessary. We have essentially granted one continuous boilerplate exemption since the adoption of this Resolution, which should be reexamined and updated to ensure the best financing terms for ratepayers going forward. We should revisit these issues in a rulemaking with an accompanying workshop before the Commission in order to lend additional clarity and transparency to this process.

D.08-10-013/A.08-05-033

D.08-10-014/A.08-06-012

D.08-10-015/A.08-06-013

Ratepayers deserve the same respect, transparency, and accountability as shareholders. These blanket exemptions without a time constraint or ceiling does not support efficiency in the market, which is driven by competitive pricing. Therefore, I will be filing a written dissent. However, I wish to be clear that my dissenting vote is not a prohibition to financing. Instead, it challenges the perpetual exemptions to the competitive bidding process.

/s/ TIMOTHY ALAN SIMON

Timothy Alan Simon

Commissioner

San Francisco, California

October 2, 2008