

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4270

August 20, 2009

R E S O L U T I O N

Resolution E-4270 Pacific Gas and Electric (PG&E). **PROPOSED OUTCOME:** This resolution approves a 20 year Lakeshore Resort Lease Agreement (Lease) between PG&E and Mr. and Mrs. Dewitt Henderson (Tenants) pursuant to Public Utilities Code Section 851. **ESTIMATED COSTS:** Not applicable

By Advice Letter 3471E. Filed on June 6, 2009.

SUMMARY

This Resolution approves PG&E's Advice Letter 3471E seeking approval under Public Utilities (PU) Code Section 851 for PG&E to enter into a 20-year Lease Agreement (Lease) with Mr. and Mrs. Dewitt Henderson (Tenants) allowing the tenants to operate the Lakeshore Resort (Resort) located on Bucks Lake Road, Plumas County. Advice Letter 3471E was processed pursuant to Resolution ALJ-202. This Resolution is effective immediately.

BACKGROUND

Utilities proposing to sell, lease, dispose of, or otherwise encumber property must comply with PU Code Section 851. Ordinarily, such a proposal would entail a full Application to the Commission, including a review pursuant to CEQA or a demonstration that such a review is not necessary. The Commission on August 25, 2005, initiated a 24-month pilot program per Resolution ALJ-186 that provides for an expedited process for certain transactions meeting criteria specified in the Resolution. On August 23, 2007, the Commission approved Resolution ALJ-202, which extends the pilot program an additional 36 months. Resolution ALJ-202 provides for an expedited process for certain transactions meeting criteria specified in the ALJ Resolution. For proposals that meet the requirements, an Advice Letter may be filed demonstrating the applicability of the pilot program to the utility's proposal and requesting an expedited review of the Advice Letter, resulting in a Resolution confirming that the proposal meets

the requirements of Resolution ALJ-202 and granting approval to the proposed project.

On June 5, 2009, PG&E filed Advice Letter 3471E pursuant to the pilot program requesting approval of a 20-year Lease Agreement (Lease) with Mr. and Mrs. Dewitt Henderson (Tenants) allowing the tenants to operate the Lakeshore Resort (Resort) located on Bucks Lake Road, Plumas County. The Tenant will take over existing vacant Commercial resort and Marina operation which includes sixty-two floating boat docks, slips and buoys. Protests or comments were due to the Commission on June 25, 2009. No protests or comments were filed.

PG&E owns certain properties in and around Bucks Lake as part of the watershed for its hydro operations. These properties include the Lakeshore Resort on Bucks Lake which has been in operation since the mid-1960s. The facilities to be leased on this property include a lodge, a bath house, a boat house, ten rental cabins, as well as a campground which contains thirty-six campsites. Additionally a marina with sixty-two boat docks, slips and buoys is located on the property, and will be subject to the new Lease as described further.

On July 15, 2004, Decision 04-07-021 granted authorization pursuant to Public Utilities Code 851, on a prospective basis, to certain licenses and leases of PG&E property that were already in effect. One of the leases was the Lakeshore Resort on Bucks Lake to Lakeshore Ltd. The lease had been in effect since June 15, 1995 and expired on December 31, 2005. Since then, there have been no tenants operating the main Resort.

Bucks Lake is a popular recreation destination with numerous cabins surrounding the lake. The closure of the resort in late 2005 resulted in job losses and loss of tourist and sales tax revenue. In August 2007 PG&E solicited invitations to individuals and businesses expressing an interest in operating the Resort. PG&E selected the aforementioned Tenants to award the new lease. The tenants will incur significant costs to renovate and maintain the facilities and therefore an amortization period of 20 years was proposed.

According to the Advice Letter, the PG&E property that will be encumbered by the proposed Lease is part of the Watershed Lands covered by the Land Conservation Commitment (LCC) established as part of the settlement agreement between PG&E, PG&E Corporation, and the Commission in I.02-04-

026. The LCC has been clarified and supplemented by a stipulation dated September 25, 2003. Pursuant to the settlement agreement, PG&E created the Stewardship Council (SC), a California non-profit corporation, to oversee and carry out the LCC.

Under the LCC, the Watershed Lands, including the PG&E property that would be subject to the proposed easement here, must be either: (1) subject to permanent conservation easements restricting development of the land to protect and preserve their beneficial public values or (2) donated in fee simple to one or more public agencies or qualified non-profit conservation organizations that will ensure the protection of those beneficial values.

The Stewardship Council plans to make Land Conservation and Conveyance Plan (LCCP) recommendations to PG&E in the future pursuant to the Land Conservation Plan (LCP) guidelines it has already adopted. In the meantime, the Governing Board of the Stewardship Council has discretion to recommend that PG&E undertake certain individual transactions before an LCCP recommendation has been made to PG&E and 851 approval received from the CPUC. The SC has developed a policy regarding third party uses of lands subject to its jurisdiction.

Pursuant to this policy, the Stewardship Council has reviewed PG&E's request for approval of the proposed Lease and found that the proposed Lease would be consistent with the long-term objectives of the settlement agreement, stipulation and LCP, and would not interfere with land conversation planning efforts, but would enhance public access and recreation at Bucks Lake. On April 29, 2009, the Stewardship Council issued a letter, which acknowledged its review of the Lakeshore Resort Lease request, and recommended that PG&E proceed with the proposed Lease so the resort can be renovated and reopened at the earliest possible time, and the handicapped accessible public access area and other facility improvements added. Therefore, the SC has no objection to the request of PG&E and the lessee for Commission approval of the proposed transaction.

Under the proposed Lease Agreement, the Tenants will pay PG&E an Annual Rent and a Percentage Rent. The Annual rent of \$10,000 begins on January 1, 2014 and increases to \$15,000 on January 1, 2019 and to \$20,000 on January 1, 2024. For the percentage rent, the Tenant shall pay PG&E 15 percent of total Gross Sales for each calendar year, excluding Marina rentals, from the date of commencement through December 31, 2013. Beginning January 1, 2014, the

percentage rate will be 8 percent of Gross Sales for each calendar year including Marina rentals, but less credit for the Annual rent paid for each respective year. This transaction is exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines because it can be seen with certainty that there is no possibility that this approval will have a significant effect on the environment.

NOTICE

Notice of Advice Letter 3471E was made by publication in the Commission's Daily Calendar on June 11, 2009.

PROTESTS

No protests or comments to Advice Letter 3471E were filed.

DISCUSSION

The Energy Division has reviewed PG&E's Advice Letter 3471E and finds that it satisfies the criteria for inclusion in the pilot program specified in Resolution ALJ-202. Additionally, AL 3471E satisfies the filing requirements specified in Appendix A Section IV. 1-13 of Resolution ALJ-202.

Further, although the Lease area is part of watershed lands covered by the LCC, PG&E's entering this lease with lessee for operation of the Lakeshore Resort will not interfere with the long-term objectives of the stipulation, settlement agreement and LCP for watershed lands, and has been approved by the Stewardship Council.

The Energy Division has determined that this transaction is exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines because it can be seen with certainty that there is no possibility that this approval will have a significant effect on the environment.

The Energy Division finds that expedited treatment pursuant to Section II of Resolution ALJ-202 is appropriate for AL 3471 and that no reason to deny the approval of Advice Letter 3471 exists pursuant to Section VII. A. 3 of Resolution ALJ-202.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g)(2), 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 being waived.

FINDINGS

1. On June 11, 2009, Pacific Gas and Electric filed Advice Letter 3471E seeking authority under Public Utilities Code Section 851 for approval of a 20-year Lease Agreement with Mr. and Mrs. Dewitt Henderson allowing the tenants to operate the Lakeshore Resort located on Bucks Lake Road, Plumas County.
2. PG&E filed AL 3471E pursuant to a pilot program specified in Resolution ALJ-202.
3. No protests or comments were received by the Commission.
4. PG&E owns certain properties in and around Bucks Lake as part of the watershed for its hydro operations, including Lakeshore Resort which has been in operation since the mid-1960s.
5. On July 15, 2004, Decision 04-07-021 granted authorization pursuant to Public Utilities Code 851, on a prospective basis, to certain licenses and leases of PG&E property that were already in effect.
6. The Lakeshore Resort lease had been in effect since June 15, 1995 and expired on December 31, 2005.
7. In August 2007 PG&E selected the aforementioned Tenants to award the new 20 year lease.
8. The PG&E property that will be encumbered by the proposed Lease is part of the Watershed Lands covered by the Land Conservation Commitment established as part of the settlement agreement with Commission in I.02-04-026.
9. Pursuant to the settlement agreement, PG&E created the Stewardship Council, a California non-profit corporation, to oversee and carry out the LCC.
10. The Stewardship Council has reviewed the proposed Lease and found that it would not interfere with land conversation planning efforts, but would enhance public access and recreation at Bucks Lake.
11. On April 29, 2009, the Stewardship Council issued a letter, which acknowledged its review of the Lakeshore Resort Lease request, and recommended that PG&E proceed with the proposed Lease.

12. The project is exempt from the California Environmental Quality Act in accordance with section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that this approval will have a significant effect on the environment.
13. The Energy Division has reviewed PG&E's Advice Letter 3471E and finds that it satisfies the criteria for inclusion in the pilot program specified in Resolution ALJ-202.
14. PG&E's Advice Letter 3471E satisfies the filing requirements specified in Section IV, 1-13 of Resolution ALJ-202 and includes all of the information necessary to provide a satisfactory review of this proposed transaction.
15. The Energy Division finds that expedited treatment pursuant to Section II of ALJ-202 is appropriate for AL 3471E and that no reason to deny the approval of Advice Letter 3471E exists.
16. This is an uncontested matter in which the resolution grants the relief requested.

THEREFORE IT IS ORDERED THAT:

1. The request of PG&E for approval of a 20-year Lease Agreement with Mr. and Mrs. Dewitt Henderson allowing the tenants to operate the Lakeshore Resort is granted.

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 August 20, 2009 the following Commissioners voting favorably thereon:

/s/ Paul Clanon
Paul Clanon
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON

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Pacific Gas and Electric AL-3471E/EYC

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Commissioners