

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4224

January 29, 2009

R E S O L U T I O N

Resolution E-4224. Pacific Gas & Electric Company (PG&E). This Resolution approves with certain exceptions PG&E's Advice Letter 3336-E seeking approval under Public Utilities Code Section 851 to sell its non-operating Kern Power Plant facility, associated equipment, and approximately 120-acres of the 152-acre facility property, located within the City of Bakersfield, to World Oil Corp. This resolution has been prepared pursuant to a pilot program specified in Resolution ALJ-202 granting expedited treatment to utility proposals meeting certain requirements.

By Advice Letter 3336-E. Filed on September 4, 2008.

SUMMARY

This Resolution approves with certain exceptions PG&E's Advice Letter 3336-E seeking approval under Public Utilities Code Section 851 to sell its non-operating Kern Power Plant facility, associated equipment, and approximately 120-acres of the 150-acre facility property, collectively known as "Property", located within the City of Bakersfield to World Oil Corp ("World"). All was processed pursuant to Resolution ALJ-202, providing for expedited action. This Resolution is effective immediately.

BACKGROUND

Utilities proposing to sell, lease, dispose of, or otherwise encumber property necessary or useful to the performance of its duties to the public 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 has initiated a pilot program per Resolution ALJ-202 that 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. In order to approve projects under the pilot program, the Commission must pass a Resolution confirming that the proposal meets the requirements of Resolution ALJ-202.

On September 4, 2008, PG&E filed Advice Letter 3336-E requesting Commission approval under Public Utilities Code 851 to grant the sale of its non-operating Kern Power Plant facility, associated equipment, and approximately 120 acres of the 152-acre facility property to World Oil Corp. World intends to use the purchased property for possible future development of commercial uses, the specifics of which are yet to be determined.

The Kern Power Plant was in operation from 1948 to 1985, and shut down as a result of the availability of cheaper energy and capacity sources. In 1994, after nine years of being in cold stand-by¹, the plant's generation production assets were retired when PG&E determined that the cost of meeting air pollution permitting requirements was not economic and not in the interest of PG&E's ratepayers. During the deregulation of California's electric industry, the Commission authorized PG&E to amortize uneconomic generation plant costs including land that would otherwise have become stranded. In 1998, all generation plant assets were grouped together and amortized without the traditional distinction between land and other assets. Since then, all operational permits have expired. PG&E is selling the facility and 120 acres of the facility property as a non-operating plant. The rest of the property will be retained by PG&E, including easements associated with transmission substations and a 70kV bus structure.

Under the Purchase and Sale Agreement for the sale of the Kern facility and land, World will pay PG&E \$5,000,000 on the Closing date and will, thereafter, indemnify PG&E for certain of its associated environmental and non-environmental costs. The Property at issue in this advice letter is fully depreciated land and property. Since ratepayers bore the full cost of the land and facility, the property, including the land associated with it, is being treated

¹ According to PG&E Advice Letter 3336-E, "cold stand-by" is a "mode of operation where a power plant is ready to deliver emergency power for a specified duration at full turbine power with sufficient notice, depending on the specifics of the turbine design."

as depreciable assets for purposes of gain on sale, and 100% of the net gain on sale, at least \$4.5 million (sale price minus transaction costs), will be allocated to ratepayers.

PG&E originally proposed in its advice letter that this amount would be awarded to ratepayers through a credit to accumulated depreciation. Given the accelerated nature of utility recovery of generation assets and of land, which is not normally amortized, Commission Energy Division staff recommended a more immediate transfer process. In discussions between Energy Division staff and PG&E, it was agreed that PG&E will allocate 100% of the net gain on sale to ratepayers as a credit that will be recorded to a memorandum account called the Utility Generation Balancing Account (UGBA) upon execution of the sale. Pursuant to the terms of the UGBA, interest will accrue on those amounts until the next Annual Electric True-Up (AET). Through this approach, the benefit to customers of the gain on sale will be realized over a shorter period of time than it would through a credit to PG&E's accumulated depreciation. PG&E agreed to this approach on the grounds that it not be treated as precedential, as PG&E states that the Kern Power Plant is the last of PG&E's plants subject to the unusual approach of accelerated amortization, pursuant to Commission Decision 97-11-074. The fair market value for the Kern property was determined by an appraisal.

This transaction is not a project pursuant to California Environmental Quality Act (CEQA) Guidelines, 14 Cal. Code Regs. Section 15378. Since this transaction, which involves the transfer or disposition of utility property, does not have the potential for resulting in either a direct physical change or a reasonably foreseeable indirect physical change to the environment, the transaction is not a "project", and CEQA review is not required.² As World has not determined the intended development of the Property, the sale of Kern Power Plant Property will not directly result in a physical change in use of the Property nor is there a reasonable foreseeable indirect physical change. According to PG&E, the sale of the Property is also not expected to have an adverse effect on the existing operations of PG&E's substation facilities or on the provision of service to PG&E's customers, as required by Public Utilities Code Section 851 for advice

² Additionally, if, assuming arguendo, this transaction was a CEQA project it would be exempt pursuant to CEQA Guideline, 14 Cal. Code Regs. Section 15061(b)(3).

letter consideration by the Commission. This transaction does not materially impact rate base as required by Resolution ALJ-202 for expedited advice letter treatment. Any possible change to the retained 70kV bus structure on the Retained Property would be of independent utility and involve negligible or no expansion of existing use. While it is possible such action would be categorically exempt under Sections 15301 (b) and/or (d) of the CEQA Guidelines, 14 Cal. Code Regs., this action is currently not before the Commission, and we will not prejudge the issue.

NOTICE

Notice of AL 3336-E was made by publication in the Commission's Daily Calendar.

PROTESTS

No protests or comments to PG&E Advice Letter AL 3336-E were filed.

DISCUSSION

The Energy Division has reviewed PG&E's Advice Letter 3336-E and finds that it satisfies the criteria for inclusion in the pilot program specified in Resolution ALJ-202. Additionally, AL 3336-E satisfies the filing requirements specified in Appendix A Section IV. 1-13 of Resolution ALJ-202.

The Energy Division finds that expedited treatment pursuant to Appendix A.II of Resolution ALJ-202 is appropriate for PG&E's Advice Letter 3336-E and that no reason to deny the approval of Advice Letter 3336-E exists pursuant to Appendix A. VII.3. of Resolution ALJ-202, with the understanding that sales proceed will be treated as laid out in this Resolution.

FINDINGS

1. On September 4, 2008 PG&E filed Advice Letter 3336-E requesting Commission approval under Public Utilities Code 851 to grant the Kern Power Plant Property ("Property") sale to World Oil Corp ("World").
2. The Property is located within the City of Bakersfield.
3. The Property is approximately 120 acres of a 152-acre property owned by PG&E.
4. The Property is designated as Assessors Parcel Numbers (APN) 368-010-03.

5. The approximately 32-acre portion of the property that is retained ("Retained Property") includes easements associated with operating transmission substations and an operating 70kV bus structure that is attached one wall of the power plant proposed to be sold.
6. The Property is currently non-operational.
7. The sale of the Property will not interfere with PG&E's existing facilities, or utility operations provision of service to the public.
8. PG&E is collecting Five Million Dollars (\$5,000,000.00) from World for the sale of the Property. World will additionally assume responsibility for and indemnify PG&E for associated demolition and environmental costs of soil and groundwater remediation, as more specifically described in the sale Agreement. Such provisions were estimated to relieve PG&E and its ratepayers from future costs of approximately \$14.3 million.
9. The preparation of environmental documents is not required because this transaction is not a project under the provisions of CEQA.

THEREFORE IT IS ORDERED THAT:

1. Pursuant to Public Utilities Code 851, the CPUC authorizes PG&E sell its Kern Power Plant Facility and associated land, collectively known as Property, as requested in Advice Letter AL 3336-E.

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 January 29, 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
Commissioners

