

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U 39 E), a California Corporation, and Lehigh Southwest Cement Company for an Order Authorizing the Sale and Conveyance of a Certain Parcel of Land in Shasta County Pursuant to Public Utilities Code Section 851.

Application 04-09-006
(Filed September 7, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
DIRECTING FURTHER RESPONSE BY THE PARTIES**

Pacific Gas and Electric Company (PG&E) seeks authority to sell 5.7 acres of land in Shasta County to Lehigh Southwest Cement Company (Lehigh) for \$5,500. In its application, PG&E asserts that any gain in the sale should go to shareholders.

The Office of Ratepayer Advocates (ORA) protested the application, arguing that ratepayers should share in any gain on sale. The protest states:

ORA will be making a detailed case in the Commission's open Gain on Sale Rulemaking (R.04-09-003) as to why ratepayers should receive the gain on sale in transactions such as the instant case. Given the open rulemaking addressing this issue, the allocation of the gain on sale in this case should be deferred.

However, in order to properly apply the ruling from that proceeding, the parties in the present case should establish a factual record. Towards that end, ORA is conducting discovery. At this time ORA does not foresee the need for evidentiary hearings. Pending successful completion of discovery, ORA recommends that the parties submit joint stipulated facts, instead of evidentiary hearings. (ORA Protest, at 2.)

PG&E replied to the protest, stating that while it continues to believe that the gain on sale should go to shareholders, it agrees that the issue should be referred to the Gain on Sale Rulemaking.

This ruling directs the parties to continue with their discovery efforts and, within 45 days of the date of this ruling, either (1) agree that ORA's protest may be withdrawn so long as the gain on sale issue is referred to R.04-09-003, or (2) submit joint stipulated facts sufficient for this matter to be decided.

IT IS RULED that the parties within 45 days of the date of this ruling shall either (1) state in writing that the Office of Ratepayer Advocates' protest may be withdrawn so long as the gain on sale issue is referred to Rulemaking 04-09-003, or (2) submit joint stipulated facts sufficient for this matter to be decided.

Dated October 22, 2004, at San Francisco, California.

/s/ GLEN WALKER

Glen Walker

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Directing Further Response by the Parties on all parties of record in this proceeding or their attorneys of record.

Dated October 22, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.