

April 17, 2003

Advice 2374-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Executed Operating Agreement between Pacific Gas and Electric Company and the California Department of Water Resources

Pacific Gas and Electric Company (PG&E) hereby submits its executed Operating Agreement with the California Department of Water Resources (CDWR) in accordance with Ordering Paragraph (O.P.) 3 of Decision (D.) 03-04-029--*Decision on Motions to Approve Operating Agreements*, from Rulemaking (R.) 01-10-024, issued on April 3, 2003.¹ O.P. 3 of the decision states that, within seven (7) days,² PG&E may file, via advice letter, an executed Operating Agreement with CDWR for the operation and administration of the long-term power purchase agreements allocated to PG&E in D. 02-09-053, issued on September 23, 2002.

By letter dated April 16, 2003, PG&E informed the Commission Energy Division of a delay in the execution of the Operating Agreement with CDWR due to certain unresolved issues between CDWR and PG&E. PG&E is complying with O.P. 3 of D. 03-04-029 by filing, as Attachment A to this filing, an executed Operating Agreement with CDWR, as authorized in that decision.

PG&E and San Diego Gas and Electric Company (SDG&E) have also identified certain errors in the executed Operating Agreement with CDWR. PG&E and SDG&E concurrently are filing a Petition to Modify (PTM) D.03-04-029 to correct these errors. PG&E assumes this PTM will be granted with an effective date consistent with the execution date of the Operating Agreement. PG&E has executed the Operating Agreement despite these errors. As discussed in more detail in the PTM, PG&E is also informed that CDWR may submit a letter requesting additional modifications to the Operating Agreement.

¹ PG&E reserves all legal rights to challenge the decisions or statutes under which it has been required to make this advice filing, and nothing in this advice filing constitutes a waiver of such rights. Also, PG&E reserves any additional legal rights to challenge the requirement to make this advice filing by reason of its status as a debtor under Chapter 11 of the Bankruptcy Code, and nothing in this advice filing constitutes a waiver of such rights.

² D. 03-04-029 was mailed on April 9, 2003; therefore, the seven-day filing date was counted from that date.

Background

O.P. 4 of D. 02-09-053 instructed PG&E and DWR to “jointly file proposed operational agreements...no later than October 1, 2002.... If there remain specific issues where agreement cannot be reached by the filing date, the utilities and DWR shall highlight those differences in a companion comparison exhibit.” This filing date was later extended, and PG&E continued to work with DWR to draft the Operating Agreement.

However, because PG&E and DWR had not reached agreement by December 18, 2002, the Commission issued D. 02-12-069, Opinion Ordering Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company To Enter Into and Comply With The Attached Operating Order, on December 19, 2002. On December 20, 2002, PG&E filed an expedited motion to terminate the Operating Order adopted in D. 02-12-069 and approve the Operating Agreement mutually agreed upon by PG&E and CDWR. Administrative Law Judge (ALJ) Halligan mailed a draft decision approving PG&E’s Operating Agreement with DWR, with modifications, on February 24, 2003. On March 20, 2003, President Peevey mailed an alternate draft decision, also with modifications to the Operating Agreement. The final decision, D. 03-04-029 was voted out on April 3, 2003, and mailed on April 9, 2003.

Protests

Anyone wishing to protest this filing may do so by sending a letter by **May 7, 2003**, which is 20 days from the date of this filing. The protest must state the grounds upon which it based, including such items as financial and service impact, and should be submitted expeditiously. Protest should be mailed to:

IMC Branch Chief – Energy Division
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: jjr@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4005 and Jerry Royer, Energy Division, at the address shown above. It is also requested that a copy of the protest be sent via postal mail and facsimile to Pacific Gas and Electric Company on the same date it is mailed or delivered to the Commission at the address shown below.

Pacific Gas and Electric Company
Attention: Brian K. Cherry
Director, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 9417
Facsimile: (415) 973-7226
E-mail: RxDd@pge.com

Effective Date

In compliance with D. 03-04-029, the effective date of this advice letter and the attached Operating Agreement is **April 17, 2003**.

Notice

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list and the service list for R. 01-10-024. Address change requests should be directed to Sandra Ciach at (415) 973-7572. Advice letter filings can be accessed electronically at: http://www.pge.com/customer_services/business/tariffs/

Vice President - Regulatory Relations

cc: Service List - R. 01-10-024

Attachment A – Operating Agreement between State of California Department of Water Resources and Pacific Gas and Electric Company