

Decision 97-10-058 October 22, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company for Authorization
to Sell Certain Generating Plants
and Related Assets Pursuant to
Public Utilities Code Section 851.
(U 39 E)

Application 96-11-020
(Filed November 15, 1996)

INTERIM OPINION

On August 25, 1997, the Commission's Energy Division published a proposed Mitigated Negative Declaration and Initial Study for the divestiture application of Pacific Gas & Electric (PG&E) to sell three plants (the Mitigated Negative Declaration) for a 30-day review and comment period. The Mitigated Negative Declaration demonstrates that as to each environmental topic, either the divestiture project will not have a significant effect on the environment, or revisions in the project plans agreed to by PG&E, prior to the release for public review of the Mitigated Negative Declaration, will avoid the identified significant environmental impacts, or mitigate them to a point where clearly no significant environmental impacts, or mitigate them to a point where clearly no significant impacts will occur. Public notice of the Commission's proposal to adopt the Mitigated Negative Declaration and of the availability of the Mitigated Negative Declaration for review and comment was provided to members of the public and government agencies, and the Mitigated Negative Declaration was submitted to the State Clearinghouse for distribution to state agencies.

During the public review and comment period, which ended on September 25, 1997, the Commission received numerous written comments on the proposed Mitigated Negative Declaration. Although not required by the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) (CEQA), the Energy Division prepared written responses to the comments received. Certain of the written responses propose changes to the text of the Mitigated Negative Declaration, and we hereby incorporate the changes proposed by the Energy Division into the Mitigated Negative Declaration. Neither the written comments received on the proposed Mitigated Negative Declaration nor the responses prepared by the Energy Division, following the conclusion of the public review and comment period for the proposed Mitigated

Negative Declaration, contain substantial evidence that the proposed plant sales will generate significant environmental impacts that cannot be mitigated.

The Energy Division has also prepared a Mitigation Monitoring and Reporting Program for the divestiture application (the MMRP). The MMRP is designed to ensure compliance during project implementation with the mitigation measures contained in the Mitigated Negative Declaration, if the divestiture application is ultimately approved. (The proposed Mitigated Negative Declaration, dated August 25, 1997, is incorporated by reference hereby, and the responses to comments, the text of the Mitigated Negative Declaration as revised by the Energy Division in response to comments, and the MMRP are attached hereto.)

Having considered the information in the Mitigated Negative Declaration, and the comments on it and the responses to comments, we find that revisions in the project plans made by, or agreed to by, the applicant before the Mitigated Negative Declaration was released for public review will avoid the significant effects of the proposed plant sales, or mitigate them to a point where clearly no significant effects on the environment will occur. We also find there is no substantial evidence in light of the record as a whole that the proposed plant sales, as revised by the mitigation measures contained in the Mitigated Negative Declaration, may have a significant impact on the environment. Accordingly, we adopt the Mitigated Negative Declaration for the PG&E divestiture application. In addition, we adopt the MMRP.

No action is being taken on the divestiture application at this time. When the application is before us for our final approval, we will consider the findings and conclusions of the Mitigated Negative Declaration and, if we approve the application, the mitigation measures within the MMRP will be made a condition of approval.

Findings of Fact

1. The mitigated negative declaration reflects the independent judgment of this Commission.
2. The contents of the mitigated negative declaration conform to the requirements of CEQA.
3. The mitigated negative declaration identified no significant environmental effects of the project that could not be avoided or reduced to non-significant levels by changes to the project that have been accepted by PG&E.
4. The Commission will consider the mitigated negative declaration when it decides whether to grant PG&E the authority to transfer the plants it seeks to divest.

Conclusions of Law

1. The Mitigated Negative Declaration has been processed in compliance with the requirements of CEQA.
2. The Mitigated Negative Declaration has been completed in compliance with the requirements of CEQA.

INTERIM ORDER

IT IS ORDERED that:

1. The mitigated negative declaration related to the application in this proceeding is adopted pursuant to the requirements of the California Environment Quality Act.
2. The mitigation, monitoring, and reporting program prepared by the Energy Division for the project is approved.
3. The Energy Division shall lodge the mitigated negative declaration and mitigation, monitoring and reporting program with Central Files as part of the record in this proceeding.

This order is effective today.

Dated October 22, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners