STATE OF CALIFORNIA GRAY DAVIS, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 22, 2003 Agenda ID #2104

TO: PARTIES OF RECORD IN APPLICATION 01-03-008

This is the draft decision of Administrative Law Judge (ALJ) Thomas. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at http://www.cpuc.ca.gov. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

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Attachment

Decision **DRAFT DECISION OF ALJ THOMAS (Mailed 4/22/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company (U 39 E) for Commission Approval for Irrevocable Lease for Metromedia Fiber Network Services, Inc. to User Fiber Optic Cable on Certain PG&E Transmission Facilities Under Terms of an Optical Fiber Installation and IRU Agreement.	Application 01-03-008 (Filed March 8, 2001)

OPINION GRANTING APPLICATION IN PART

I. Summary

We grant in part the application of Pacific Gas and Electric Company (PG&E) for approval of an irrevocable license for Metromedia Fiber Network Services, Inc. (MFNS) to use fiber optic cable on PG&E's facilities. An earlier version of the draft decision proposed to deny the application on the ground that PG&E had failed to address with specificity the facilities affected, the exact nature of project activity, and the need for environmental review under the California Environmental Quality Act (CEQA).

PG&E has since clarified that it only seeks approval of three modifications to its system. We grant its application as to those modifications on the ground they present no risk of environmental harm. To the extent PG&E's application may be construed to seek more open-ended authority to allow the installation of MFNS fiber optic facilities on PG&E plant, we deny the application.

However, in the future, PG&E should be more thorough in applications that implicate CEQA. It should disclose up front and in detail the affected facilities and attach all relevant CEQA documents, including any study of the environmental impact of the project.

II. Background

A. Lack of Clarity as to Affected Facilities

This is one in a series of applications related to MFNS' California fiber optic construction project. MFNS, now in Chapter 11 bankruptcy proceedings,[1] has in separate applications or petitions for modification sought (and received) approval of a fiber optic network in the San Francisco Bay Area[2]; sought 82 (and received 80) modifications to that network[3]; sought and received permission for additional modifications[4]; sought approval of the San Diego and Sacramento portions of its fiber optic network[5]; and in this application seeks, via a PG&E application, approval of the PG&E–attached portions of its network. The Commission also has an enforcement action pending against MFNS to determine whether MFNS' commencement of construction of the project approved in D.00-09-039 without CEQA review warrants penalties.

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[1] We take official notice of MFNS' bankruptcy filing. MFNS may respond to such notice in comments on this decision.

[2] MFNS Application (A.) 00-02-039/Decision (D.) 00-09-039.

[3] MFNS Petition for Modification filed November 8, 2000, granted in D.00-09-039.

[4] Petition for Modification filed June 15, 2001, granted in D.01-09-018.

[5] MFNS has since asked the Commission to hold A.00-11-039 "in abeyance and defer [its] further processing. . . ."

The application did not clearly identify the full range of affected PG&E facilities. After assigned Administrative Law Judge (ALJ) Sarah R. Thomas requested more information on the proposed changes to PG&E property, MFNS identified the facilities installed to date[6] – the three facilities as to which we approve the application here. However, both MFNS and PG&E also implied that PG&E was also seeking approval of future installations.

First, MFNS, which has been involved with PG&E in pursuing this application from the outset, suggested that the application involved future construction. The following exchange took place at July 26, 2001 prehearing conference:

> Q. What construction is involved with this application?
>
> A. Your Honor, are you asking about construction that has occurred *or construction that may occur in the future*?
>
> ALJ Thomas: Both.
> [Description of already-installed facilities]
>
> . . .
>
> ALJ Thomas: . . . *Now, same questions as to future construction anticipated.* What is anticipated vis-à-vis distribution facilities versus transmission, and what sort of construction activities are anticipated, that is, trenching, installation of

[6] MFNS said it had already installed (1) one fiber optic cable crossing the San Francisco Bay on existing PG&E electric transmission towers parallel to the San Mateo Bridge; (2) a point of presence, or "POP" site, at the east end of this crossing in Hayward; and (3) one 150-foot section of fiber optic cable in existing PG&E telecommunication conduit in San Francisco. *Errata to Response of [MFNS] to July 26, 2001 Questions from [Judge] Thomas*, filed August 14, 2001, at 2 (MFNS August 14, 2001 Response).

> pole boxes, splice boxes, other facilities that are used in fiberoptic [sic] construction?
>
> [A:] Your Honor, I'm not sure whether there are other facilities that have specifically been proposed or planned . . . .
>
> I'm not aware of such pending facilities that would be subject to this agreement, *but that doesn't mean that there aren't some.*[7]

Second, the application sought approval of a broad "Master Use and Indefeasible Right to Use Agreement" (Agreement) between MFNS and PG&E which covered an array of PG&E facilities, including transmission towers, substations, rights-of-way and other facilities. The breadth of the Agreement suggested that the application sought an open-ended grant of authority. For example, the Agreement's reference to "substations" – none of which are involved in the three projects we approve here – suggested that the parties contemplated other, future installations.

Finally, PG&E did not mention in its application the second and third installations (the Hayward point of presence and San Francisco cable installation) we approve here. Rather, it noted only that, "As of the date of this Application, optical fiber cable has been installed under the Agreement on only one Cable Route consisting of approximately 14 miles[8] of overhead cable on the company's

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[7] Transcript of 7/26/01 Prehearing Conference, at 4:9-15, 13:17-25, 14:10-12, 18:26-19:2.

[8] PG&E clarified in comments on the original draft decision issued in this case and later withdrawn that the permit covered only 7.85 miles. *Comments of Pacific Gas and Electric Company on Draft Opinion Denying Application*, filed Oct. 28, 2002, at 6, n.2 (PG&E Comments First Draft).

electric transmission towers." PG&E simply sought approval to install fiber optic cable on otherwise unspecified "Electric transmission towers and poles and distribution poles," at "electric substations," and in "rights-of-way."[9]

Thus, the application was ambiguous as to whether the parties were seeking blanket approval of future installations, and the parties did not adequately clarify their future plans in later filings. Only after the assigned ALJ mailed the original draft decision denying the application without prejudice did the parties clarify that they were seeking approval only of the three installations we describe in this decision. (We have since withdrawn that draft decision in light of PG&E's clarification.)

Now that PG&E has clarified its intentions, we will treat this application as dealing only with the following three modifications.

B. Facilities This Decision Addresses

PG&E now seeks leave to grant MFNS an irrevocable license to use fiber optic cable on the following three PG&E transmission facilities:

1. One fiber optic cable that crosses San Francisco Bay on existing PG&E electric transmission towers parallel to the San Mateo Bridge;

2. An above-ground point of presence (POP) site associated with and at the end of the fiber optic crossing in the City of Hayward; and

3. One 150-foot section of fiber optic cable installed in existing PG&E telecommunications conduit in the City of San Francisco.

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[9] Application at 11.

On Item 1, PG&E claims that the San Francisco Bay Conservation and Development Commission (BCDC) determined that CEQA was inapplicable, and that that determination binds this Commission. PG&E asserts that we approved Item 2 when we approved MFNS' original application for its San Francisco Bay Area fiber optic network. Finally, PG&E's view is that Item 3 is exempt from CEQA requirements because it involves the "minor alteration of existing utility facilities."

III. Discussion

A. Introduction

We first analyze each of PG&E's three proposed modifications for compliance with Pub. Util. Code § 851 and with CEQA, and find PG&E has made an adequate showing favoring approval. We find that the application serves the public interest by proposing joint use of utility facilities and minimizing duplicative infrastructure. Finally, we determine that PG&E should allocate all revenue stemming from its Agreement with MFNS to its ratepayers, rather than having ratepayers share those revenues with PG&E's shareholders according to a 50/50 split.

B. CEQA Analysis

1. Fiber Optic Cable Across San Francisco Bay

The first facility PG&E addresses is a fiber optic cable that crosses San Francisco Bay on existing PG&E electric transmission towers parallel to the San Mateo Bridge. PG&E claims the installation "is categorically exempt from CEQA as a minor alteration to existing utility structures involving negligible

physical expansion beyond the previously existing facility use."[10] PG&E claims that the BCDC so found when it issued PG&E a permit to construct the facilities over the San Francisco Bay, and that the BCDC's conclusion binds this Commission.

The BCDC's letter, dated January 11, 2000, but not submitted to us by PG&E until August 2001, allowed PG&E, among other things, to reconstruct its transmission towers across the San Francisco Bay at the San Mateo Bridge. As part of this authorization, the BCDC also allowed PG&E to "install and maintain all-dielectric, self supporting ADSS cables . . . onto existing electric transmission towers in the 'Bay,' 'salt ponds,' and within the 100-foot shoreline band."[11] PG&E's witness, Mike Warner, stated in a declaration PG&E filed supplementing the application that the "ADSS" cable referred to above was the fiber optic cable at issue here.[12]

Mr. Warner explained that, "the installation of the [fiber optic] cable was performed by helicopter and was placed above the existing transmission

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[10] PG&E Comments First Draft at 5, citing D.00-01-014, 2000 Cal. PUC LEXIS 41 (exempting pursuant to CEQA Guidelines § 15061(b)(3)); D.96-07-038, 1996 Cal. PUC LEXIS 790 (same); D.94-06-017, 1994 Cal. PUC LEXIS 458 (same); D.93-04-019, 1993 Cal. PUC LEXIS 275 (same); D.92-07-007, 1992 Cal. PUC LEXIS 599 (finding fiber optic ground wire and splice cases attached to existing towers categorically exempt from CEQA); D.96-11-058, 1996 Cal. PUC LEXIS 1182 (exempting pursuant to CEQA Guidelines § 15061(b)(3); D.95-05-039, 1995 Cal. PUC LEXIS 557 (exempting pursuant to CEQA Guidelines §§ 15301(b) and 15061(b)(3)).

[11] *Submission of [PG&E] Providing Additional Information as Request by ALJ Thomas at the July 26, 2001 Prehearing Conference* (PG&E Supplement), filed Aug. 13, 2001, Exhibit (Exh.) A.

[12] PG&E Supplement, Exh. B, *Declaration of Mike Warner in support of Response of [PG&E] and [MFNS] to July 26, 2001 Questions from Administrative Law Judge Thomas,* at 3, ¶ 4.

conductors. PG&E environmental staff performed environmental inspection during construction to ensure that there were no adverse impacts to the environment. Thus, the BCDC approved PG&E's permit to install the fiber optic cable."[13]

The BCDC concluded that the project – including installation of the fiber optic cable across the Bay – "will not adversely affect the Bay nor public access to and enjoyment of the Bay."[14] The BCDC concluded that the project was "categorically exempt from the requirement to prepare an environmental impact report."[15]

PG&E also listed contacts with other resource agencies – both with and without jurisdiction over the project – including the United States (U.S.) Army Corps of Engineers, the U.S. Coast Guard, this Commission, the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the Federal Aviation Administration, the California Department of Transportation (Caltrans), the Cities of Hayward, Foster City and San Mateo, and the Bay Area Rapid Transit District (BART).[16]

By the same token, MFNS concedes it does not know whether the BCDC itself ever consulted this Commission or any other agency before making its determination that the project would not adversely affect the Bay or public

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[13] *Id.* at 4.

[14] PG&E Supplement, Exh. A.

[15] *Id.*

[16] *Id.*

access to and enjoyment of the Bay. MFNS simply asserts BCDC was the lead agency for purposes of environmental review under CEQA.

PG&E claims that the San Mateo Bridge line is subject to a categorical exemption from CEQA on the ground it is a "minor alteration of existing facilities." CEQA Guideline Section 15301 and Commission Rule 17.1(h)(1)(A)(2) provide for a CEQA exemption for minor alterations of existing facilities. However, we believe this exemption may only be properly applied to an electric utility for minor alterations to and for the purpose of its own electric service. We do not believe the modification of electric facilities to install new telecommunications lines constitutes negligible or no expansion of existing use. Indeed, the change PG&E made to its facilities is not related to existing use of the facilities, but rather enables telecommunications modernization. Thus, the exemption does not apply here. On balance, however, we are satisfied that the BCDC's determination, coupled with PG&E's contacts to the other agencies we list above, ensured that no environmental harm would come from the fiber optic cable's installation.

In the future, however, PG&E should be more direct in its evidentiary presentation. PG&E did not submit the BCDC documentation until after the ALJ addressed the matter at a prehearing conference. In the future, PG&E shall submit all CEQA-related background information up front and demonstrate with its application that CEQA has been satisfied.

2. POP Site – Hayward

The second site at issue involves a POP[17] in the City of Hayward.[18] In its original application seeking approval of its San Francisco Bay Area fiber optic project, A.00-02-039, MFNS listed several POPs for which it sought Commission approval, including the Hayward POP. In connection with that application, the Commission prepared a Mitigated Negative Declaration concluding that MFNS' project – which included the City of Hayward POP – would not have a significant impact on the environment provided that specific mitigation measures were implemented in the construction and operation of the project.[19]

Thus, the Hayward POP received environmental review along with several other POPs and facilities in connection with the Commission's decision regarding MFNS in D.00-09-039. Again, PG&E should have made this clear in its original application, but we are now satisfied that it is appropriate to grant the application as to that site.

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[17] A POP is an above-ground structure housing equipment (and sometimes personnel) necessary to support, test, power and maintain the fiber optic network. (*See* D.00-09-039, *mimeo.* at 5, 2000 Cal. PUC LEXIS 711.)

[18] There was initially some confusion about the extent of construction involved with the POP site in the City of Hayward. In PG&E's comments on the original draft decision issued on this application, it stated that this installation consisted of a "regeneration station, or point of presence ('POP') site." Both PG&E and MFNS clarified in their reply comments on the draft decision that the installation consisted only of a POP site, a far simpler structure than a regeneration station.

[19] D.00-09-039, *mimeo.* at 7, 2000 Cal. PUC LEXIS 711.

3. Fiber Optic Cable in San Francisco

The third facility for which PG&E seeks approval consists of a 150-foot section of fiber optic cable installed in existing PG&E telecommunications conduit in the City of San Francisco. While not mentioned in its application, PG&E stated in its August 13, 2001 submission that "150 feet of fiber cable ha[d] been pulled into existing telecommunications conduit under the Agreement."[20] PG&E claimed in its October 26, 2002 comments on the original draft decision that this section was exempt from CEQA review under CEQA Guidelines §§ 15301(b) and 15061(b)(3), Rule 17.1(h)(1)(A)(2) of this Commission's rules, and several Commission decisions.[21] We believe that MFNS' installation of fiber in existing PG&E conduit falls within the scope of MFNS' limited facilities based on the authority granted to MFNS in D.98-07-108. As we stated in D.02-07-026, limited facilities-based CPCNs have generally allowed companies to lease existing conduit without triggering a new project under CEQA that would require further environmental review.

C. Section 851

1. Public Interest

In an application under Pub. Util. Code § 851, such as this one, we are required to determine whether the proposal is in the public interest. Here, we find the public interest will be served, as the installation results in joint use of utility facilities. As we stated in D.00-07-010:

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[20] PG&E Supplement at 3.

[21] *Id.* at 7, citing D.00-01-014, D.94-06-017, D.93-04-019 and D.92-07-007.

> It is sensible for California's energy utilities, with their extensive easements, rights-of-way, and cable facilities, to cooperate in this manner with telecommunications utilities that are seeking to build an updated telecommunications network. Joint use of utility facilities has obvious economic and environmental benefits. The public interest is served when utility property is used for other productive purposes without interfering with the utility's operation or affecting service to utility customers.[22]

The installations we approve here will help facilitate MFNS' service to its customers, while avoiding installation of duplicative infrastructure by making use of existing PG&E outside plant.

However, we note that PG&E initially granted MFNS a license to use PG&E's property and installed facilities prior to seeking approval under the current application to convert the licenses into lease agreements. PG&E claims it relied on Commission General Order (GO) 69-C to grant a license to a third party and allow construction on its property in anticipation of its application under § 851 for an irrevocable lease transaction with MFNS. Application at 13.

This case poses a significant issue as to whether the activities in question could appropriately have been undertaken under a GO 69-C license agreement as opposed to requiring prior Commission approval under a lease. We have addressed these GO 69-C/Section 851 license-lease transactions in several prior Commission decisions and found that they violate the law in certain circumstances. In D.01-08-069 and D.01-08-070, we summarized the law in this area, and reiterated our prior statements that we will "deny applications to

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[22] D.00-07-010, *mimeo.* at 6, 2000 Cal. PUC LEXIS 576, at *9.

convert GO 69-C agreements to lease agreements in the future, where the structure of those transactions was designed to circumvent the advance approval requirements of Section 851, and the associated CEQA review requirement."[23] In D.01-08-069, we took exception to the fact that the project in question involved "significant and permanent structures" that fell outside of the "limited uses" permitted by GO 69-C.[24]

We believe that this application barely avoids running afoul of the standards we set forth in the above-cited decisions. While all the facts are not clear, it is possible that the installations were appropriately the subject of licenses, because the work involved was sufficiently impermanent to be capable of easy removal if PG&E decided to revoke the licenses. At least two of the three installations – stringing of a fiber cable across the San Francisco Bay and pulling of cable through existing PG&E conduit – should have been easily removed had PG&E asked MFNS to do so. PG&E did not adequately describe the nature and extent of construction involved with the third piece of the project – the POP in Hayward – to make a clear determination of whether the activity was appropriate for a GO 69-C transaction. However, we are less concerned with this piece because it received full advance CEQA review in the context of MFNS' own application.

Finally, we note that the installed facilities form but a small part of a much larger fiber optic network MFNS has installed in the San Francisco Bay Area. Disallowing these small pieces of the network will break the linkage

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[23] D.01-08-070, *mimeo.*, at 17 (quoting D.00-12-006).

[24] D.01-08-069, *mimeo.* at 22.

among aspects of the network and ultimately hurt MFNS rather than PG&E, who was bound by the Section 851 requirements.

Thus, in the narrow circumstances presented in this case, we will approve the GO 69-C license-to-lease conversion. We remind PG&E, however, of its obligations under the foregoing decisions, and urge it to spell out in future applications precisely how its applications meet the standards we summarized and relied upon in D.01-08-069 and D.01-08-070.

2. Ratemaking Treatment

In the application, PG&E explains that historically, license and lease revenues such as those at issue here have been fully credited to the benefit of ratepayers. With electric industry restructuring, jurisdiction for rates and services over PG&E's transmission system now rests with the Federal Energy Regulatory Commission (FERC). Thus, revenues for license or lease of FERC jurisdictional property are subject to FERC accounting and ratemaking rather than CPUC authority. In contrast, revenues from the license or lease of distribution facilities are subject to Commission jurisdiction.

PG&E requests that it be allowed to apply the same accounting and ratemaking treatment for revenues received under its Agreement with MFNS as it uses under its interim revenue-sharing mechanism for "non-tariffed products and services" (NTP&S).[25] If approved, PG&E would split net revenues 50/50

[25] In D.99-04-021, the Commission adopted PG&E's proposed ratemaking for revenues from products and services offered by the utility on a non-tariffed basis (often referred to as NTP&S). The revenue sharing mechanism, adopted on an interim basis, splits net revenues 50/50 between ratepayers and shareholders. The decision allowed use of this sharing mechanism only for "new" categories of NTP&S, and specifically excluded "existing" categories from this mechanism.

between ratepayers and shareholders rather than crediting all revenues to ratepayers based on historical practice.

However, faced with the identical argument in connection with D.02-03-059, the Commission's Office of Ratepayer Advocates recommended that we deny PG&E's request to share revenues 50/50, and instead urged us to credit all revenues to ratepayers. We agreed with ORA in that case, and see no reason to deviate from that decision here.[26] As we said in D.02-03-059, the revenues PG&E will earn under its Agreement with MFNS do not derive from "new" services meriting a change from our normal way of doing things. Only in the case of new services is a 50/50 split allowed.

Therefore, here, as in D.02-03-059, we find that PG&E shall credit revenues obtained under its Agreement with MFNS from the license or lease of Commission jurisdictional property fully to the benefit of ratepayers.

IV. Comments on Draft Decision

The draft decision of Administrative Law Judge (ALJ) Thomas in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____ , and reply comments were filed on _____.

V. Assignment of Proceeding

Loretta M. Lynch is the assigned Commissioner and Sarah R. Thomas is the assigned Administrative Law Judge.

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[26] D.02-03-059, *mimeo.* at 13-14.

Findings of Fact

1. MFNS has filed several applications and petitions related to its San Francisco Bay Area fiber optic construction project.

2. PG&E's application did not clearly identify the full range of affected PG&E facilities.

3. PG&E's application did not attach detailed information regarding environmental analysis conducted to date regarding its proposed construction.

4. Both MFNS and PG&E made statements suggesting that PG&E was seeking approval of future installations.

5. Only after the assigned ALJ mailed the original draft decision denying the application without prejudice did the parties clarify that they were seeking approval only of the three installations we describe in this decision.

6. The BCDC granted PG&E a permit to, among other things, reconstruct its transmission towers across the San Francisco Bay at the San Mateo Bridge. As part of this authorization, the BCDC also allowed PG&E to "install and maintain all-dielectric, self supporting ADSS cables . . . onto existing electric transmission towers in the 'Bay,' 'salt ponds,' and within the 100-foot shoreline band." The "ADSS cable" is the fiber optic cable at issue here.

7. The BCDC concluded that the project – including installation of the fiber optic cable across the Bay – "will not adversely affect the Bay nor public access to and enjoyment of the Bay" and that the project was "categorically exempt from the requirement to prepare an environmental impact report."

8. PG&E or its representative also contacted other resource agencies regarding the San Mateo Bridge installation including the U.S. Army Corps of Engineers, the U.S. Coast Guard, this Commission, the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the Federal Aviation

Administration, the California Department of Transportation (Caltrans), the Cities of Hayward, Foster City and San Mateo, and the Bay Area Rapid Transit District (BART).

9. A claim by PG&E for a categorized exemption from CEQA for the minor alteration of existing facilities should generally only apply to facilities used to provide electric service.

10. The evidence does not establish whether the BCDC ever consulted this Commission or any other agency before making its determination that the project would not adversely affect the Bay nor public access to and enjoyment of the Bay.

11. The Commission evaluated the City of Hayward POP as part of its Mitigated Negative Declaration approved in D.00-09-039 and found installation of the POP would not cause environmental harm.

12. The revenues PG&E will earn under its Agreement with MFNS do not derive from "new" services.

Conclusions of Law

1. The BCDC's determination, coupled with PG&E's contacts to the other agencies we list above, ensured that no environmental harm would come from the fiber optic cable's installation on the San Mateo Bridge.

2. The 150-foot section of fiber optic cable installed in existing PG&E telecommunications conduit in the City of San Francisco is within the existing limited facilities based authority granted to MFN in D.98-07-108.

3. PG&E's proposal as to the three installations we approve is in the public interest because it promotes joint use of utility facilities and obviates the need for duplicative infrastructure.

4. While PG&E did not explain whether it appropriately characterized the installations as licenses later to be converted to leases, in the narrow circumstances of this case, we will approve the G.O. 69-C license to lease conversion.

5. While we cannot find that the Hayward POP was the appropriate subject of a license-lease transaction, the fact that the POP received formal CEQA review makes us less concerned that this installation evaded such review.

6. Historically, license and lease revenues such as those at issue here have been fully credited to the benefit of ratepayers. There is no reason to justify deviation from this scheme in this proceeding.

O R D E R

IT IS ORDERED that:

1. This application is granted in part as to the following three installations:

   a. One fiber optic cable which crosses San Francisco Bay on existing Pacific Gas and Electric Company (PG&E) electric transmission towers parallel to the San Mateo Bridge;

   b. An above-ground point of presence (POP) site associated with and at the end of the fiber optic crossing in the City of Hayward; and

   c. One 150-foot section of fiber optic cable installed in existing PG&E telecommunications conduit in the City of San Francisco

2. The application is otherwise denied.

3. In the future, PG&E shall seek permission of this Commission for installations involving construction before, and not after, it completes such construction.

4. In the future, PG&E shall submit with its application for approval of construction with potential environmental impact all environmental reviews or other documentation evaluating the environmental impact of the proposed construction.

5. PG&E shall allocate all revenues it receives as a result of the activities we approve here to its ratepayers, rather than splitting them 50/50 between its shareholders and ratepayers.

6. Application 01-03-008 is closed.

This order is effective today.

Dated _____, at San Francisco, California.