STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

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

April 26, 2005

Agenda ID 4516
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 02-03-020

This is the draft decision of Administrative Law Judge (ALJ) O'Donnell. 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 O'DONNELL (Mailed 4/26/2005)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company in its 2002 Nuclear Decommissioning Cost Triennial Proceeding. (U 39 E)	Application 02-03-020 (Filed March 15, 2002)

OPINION DENYING PETITION TO MODIFY DECISION 03-10-014

Summary

In its petition for modification of Decision (D.) 03-10-014, Pacific Gas and Electric Company (PG&E) asks that it be allowed to address its nuclear decommissioning cost trust fund (trust) revenue requirements in its general rate case (GRC) proceedings rather than in a separate nuclear decommissioning cost triennial proceeding (NDCTP) as required by D.03-10-014. By this decision, we deny the petition in order to ensure that funding of the trusts is thoroughly reviewed in a manner that is consistent across the utilities.

Background

The purpose of the NDCTP is to set the annual revenue requirements for the trusts.

Application (A.) 02-03-020 was PG&E's application for its 2002 NDCTP. Application 02-03-039 was the application of Southern California Edison Company (SCE) and San Diego Gas and Electric Company (SDG&E) for their 2002 NDCTP. All three utilities are required to file their NDCTP applications at approximately the same time every three years. For these applications,

combined hearings were held although the proceedings were not consolidated. The purpose of the combined hearings was to address issues common to both proceedings in a single set of hearings. In this way, a record was developed that allowed the Commission to treat common issues in both proceedings consistently. The results were D.03-10-014 for PG&E, and D.03-10-015 for SCE and SDG&E.

Trust contribution levels and the resulting revenue requirements are calculated using complex computer models. The models are first used to estimate the decommissioning costs in current dollars. The decommissioning costs are then escalated to the future years in which they will occur. The models use the current trust balances, and estimated future earnings, to estimate the trust contributions necessary to pay the decommissioning costs when they occur. The models then determine the revenue requirement needed to provide the contributions.

The record in these proceedings revealed that there were a number of common issues. They included trust rates of return, escalation rates, low level radioactive waste disposal costs, and contingency factors. The estimated future trust earnings are calculated using the estimated trust rates of return. The escalation rate is used to escalate the current nuclear decommissioning cost estimate to the future years in which the costs will be incurred. The low level radioactive waste disposal costs are used to calculate the cost of disposing of the low level radioactive waste that will be generated when the plants are decommissioned. The contingency factors are used to determine the contingency costs that are components of the decommissioning cost estimates that allow for uncertainties in the estimates.

Both decisions adopted the same trust rates of return, escalation rates, and low level radioactive waste disposal costs for all three utilities. For contingency factors, the adopted values were not the same across the utilities, but they were set in a consistent manner.

In A.02-03-020, PG&E requested an annual revenue requirement of $24.034 million for decommissioning Diablo Canyon Power Plant Units 1 and 2 (Diablo Canyon), and $17.511 million for Humboldt Bay Power Plant Unit 3 (Humboldt). In D.03-10-014, the Commission found that the trusts for Diablo Canyon are sufficient to pay for its eventual decommissioning, and no revenue requirement was necessary for PG&E for 2003. For Humboldt, the Commission set the revenue requirement at $18.450 million.

In A.02-03-039, SCE requested an annual revenue requirement of $25.0 million for San Onofre Nuclear Generating Station Units 2 and 3 (SONGS 2&3), and Palo Verde Nuclear Generating Station Units 1, 2, and 3 (Palo Verde). SDG&E requested an annual revenue requirement of $11.534 million for SONGS 2&3. In D.03-10-015, the Commission set the annual revenue requirement for SCE at $32.848 million for 2003. For SDG&E the annual revenue requirement was set at $6.692 million for 2003.

In both D.03-10-014 and D.03-10-015, the primary reasons for the differences between the requested and adopted numbers were the different adopted values for the common issues.

PG&E's Request and Parties' Responses

PG&E asks that it be allowed to address the funding of its trusts in its general rate case proceedings rather than in a separate NDCTP as required by D.03-10-014. PG&E presents several arguments in support of its request.

PG&E's first argument is that it would restore the prior practice of addressing trust revenue requirements in the GRC. PG&E states that they were formerly done in GRCs. In D.96-12-088, the Commission determined that electric industry restructuring would no longer require GRCs and, therefore, scheduled NDCTPs to be done every three years. PG&E states that since GRC proceedings will now be done, the trust revenue requirements should be addressed in the GRCs as before.

PG&E represents that addressing the trust revenue requirements in the GRCs would provide a more efficient procedural mechanism by avoiding the creation of an entirely separate proceeding. It also argues that its proposal would facilitate the integration of various elements otherwise determined in the GRC (e.g. administrative and general overhead charges, property taxes, etc.) into the calculation of the trust revenue requirements, and allow the trust revenue requirements to be put into rates in the GRC.

PG&E argues that the timing of the decommissioning of the various nuclear plants is different, and that there are issues unique to each plant. These include trust portfolio allocations, investment strategies, and risk tolerances. It also claims that there was very little overlap or efficiency gains in the last NDCTPs, and that the proceedings were not consolidated.

The Commission's Office of Ratepayer Advocates, and the Modesto Irrigation District filed comments on the petition. Neither party opposed PG&E's request.

Discussion

PG&E is correct in pointing out that trust revenue requirements were formerly addressed in GRCs. It is also correct that there would be some efficiencies in addressing them in GRCs. However, there is more to it than that.

As stated previously, the primary reasons for the differences between the requested and adopted numbers in both D.03-10-014 and D.03-10-015 were the different adopted values for the common issues. This illustrates the benefit of performing the NDCTPs for the utilities at the same time so that they can be done in a consistent and coordinated manner whether the proceedings are consolidated or not. Setting the trust revenue requirements in the GRCs would not allow that to happen because the GRCs for PG&E, SCE, and SDG&E do not occur in the same year.

The purpose of the trusts is to ensure that there are sufficient funds available to pay for decommissioning nuclear power plants when decommissioning occurs. There is no reason to believe that all such plants will cost the same amount to decommission, since they are different in many respects. However, such things as decommissioning cost escalation rates, are not unique to each plant. One would expect that increases in the costs of materials and labor for a given forecast year should be approximately the same across the nuclear industry. As to trust rates of return, since the trusts operate in the same financial markets, the opportunity to earn a return on trust investments in future years should be the same for the utilities. Therefore, forecast trust rates of return would be expected to be the same, although recorded rates of return will be different between the utilities based on the actual investment decisions made by the trust committees who control them. Low level radioactive waste disposal costs are uncertain at best, due in large part to the uncertainty as to where such waste will be disposed of, and by whom. It would appear likely that there will be few places to dispose of such waste. Therefore, there is no reason to believe that the rates per pound charged for disposal of each class of waste will be substantially different between the plants. As to contingencies, it is reasonable to

expect that differences in the portion of decommissioning costs attributable to contingencies for a particular decommissioning task at each plant should be due to the differences in the level of specificity as to how, when, and by whom the task will be performed, and not due to double counting, or some other inappropriate reason. The above are examples of issues that should have a common treatment across the utilities unless there are specific reasons for differences. Performing the NDCTPs for the utilities at the same time would facilitate this.

GRCs are complex proceedings with many issues. Addressing the trust revenue requirements in those proceedings would just make the proceedings more complicated for the participants. This would likely mean that less attention would be given to these issues by the parties than would be the case with a separate application.[1] Addressing the trust revenue requirements for the utilities at about the same time in the NDCTPs would allow the interested parties, other than the applicants, to address common issues more efficiently. For example, an interested party may be able to prepare a single exhibit addressing common issues that would be used in all of the utilities' NDCTP proceedings. If the hearings or the proceedings are consolidated, the interested parties would only have to testify once on the common issues rather than in each proceeding.

For all of the above reasons, we believe that the benefits of separate NDCTP proceedings outweigh the benefits of addressing trust revenue requirements in GRCs. Therefore, we will deny the petition for modification.

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[1] This argument could also be made for other expenditures addressed in the GRC. However, trust revenue requirements are currently not addressed in GRCs, and no other types of expenditures are before us in this petition.

This decision should be effective today in order to allow PG&E to prepare for its next GRC and NDCTP without delay regarding the matters addressed herein.

Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) 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 by _____.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

Findings of Fact

1. Trust revenue requirements were formerly addressed in GRCs.
2. There would be some efficiencies in addressing trust revenue requirements in GRCs.
3. The primary reasons for the differences between the requested and adopted numbers in both D.03-10-014 and D.03-10-015 were the different adopted values for the common issues.
4. Performing the NDCTPs for the utilities at the same time allows them to be done in a consistent manner whether the proceedings are consolidated or not.
5. Setting the trust revenue requirements in the GRCs would not allow them to be done in a consistent and coordinated manner because the GRCs for PG&E, SCE, and SDG&E do not occur in the same year.
6. GRCs are complex proceedings with many issues.
7. Addressing the trust revenue requirements in GRCs would make the GRCs more complicated for the participants.

8. Addressing the trust revenue requirements in GRCs would likely mean that less attention would be given to the issues by the parties than would be the case with a separate application.

9. Performing the NDCTPs for the utilities at the same time allows the interested parties, other than the applicants, to be more efficient.

10. The benefits of separate NDCTP proceedings outweigh the benefits of addressing trust revenue requirements in GRCs.

11. The petition is unopposed.

12. No hearings are necessary.

Conclusions of Law

1. The petition for modification should be denied.

2. This decision should be effective today in order to allow PG&E to prepare for its next GRC and NDCTP without delay regarding the matters addressed herein.

O R D E R

IT IS ORDERED that the petition of Pacific Gas and Electric Company for modification of Decision 03-10-014 to allow its nuclear decommissioning cost trust fund revenue requirements to be addressed in its general rate case proceedings rather than in a separate nuclear decommissioning cost triennial proceeding is denied.

This order is effective today.

Dated _____, at San Francisco, California.