Docket	:	A.15-04-003
Exhibit Number	:	ORA-1
Commissioner	:	L. Randolph
ALJ	:	K. Bemesderfer
Witness	:	S. Hunter

OFFICE OF RATEPAYER ADVOCATES
CALIFORNIA PUBLIC UTILITIES COMMISSION

Prepared Testimony of the Office of Ratepayer Advocates

Pacific Gas and Electric Company, Merced Falls Hydroelectric Project Sale

San Francisco, California
January 22, 2016

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I. INTRODUCTION

This exhibit presents the analyses and recommendations of the Office of Ratepayer Advocates (ORA) regarding Application (A.) 15-04-003 filed on April 1, 2015 and amended on the same date by the Pacific Gas and Electric Company (PG&E) to obtain Commission approval for PG&E's proposed sale of the Merced Falls Hydroelectric Project (Project) to Merced Irrigation District (MID).[1]

ORA examined PG&E's application and conducted an independent analysis of the supporting workpapers, responses to data requests, and other discovery.

While ORA does not oppose PG&E's proposed sale of the Merced Falls Project to MID, ORA recommends that ratepayers should not be allocated the costs related to the recent Federal Energy Regulatory Commission (FERC) relicensing.[2]

PG&E requests the recovery of $5.534 million from ratepayers associated with the loss on the proposed sale of the Project, while ORA recommends the recovery of $2.684 million from ratepayers.

II. BACKGROUND

MID is a local publicly owned utility providing irrigation water to 3,100 agricultural customers, electrical service to over 110,000 customers, and drinking water to the city of Modesto.

The Project, on the Merced River bordering Merced and Mariposa Counties, is immediately downstream from MID's Merced River Hydroelectric Project, and is approximately three river miles upstream from MID's Crocker-Huffman Diversion Dam. It consists of a 3.5 megawatt (MW) hydroelectric powerhouse generating approximately 14.4 gigawatt hours (GWh) per year, a concrete gravity dam, a 65-

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[1] PG&E, A.15-04-003 (amended, Ap. 1, 2015) (public vers.), *available at* http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=All&DocID=149822059

[2] *See* ORA Protest, A.15-04-003, at 3 (Issues to Be Considered).

acre reservoir, approximately 20.5 acres of land, FERC license, easements, and water rights. It is operated as a base-load run-of-the-river facility.

MID operates the Project through an agreement with PG&E because the Project is geographically isolated from PG&E's other hydroelectric operations but is near MID's other hydropower facilities. Additionally, inflow to the Project is controlled by MID's upstream dam and outflows from the Project's powerhouse are controlled to match MID's downstream needs.

PG&E and MID discussed potential sale of the Project on and off for over six years beginning in mid-2008[3] and agreed to a sale price in 2015 of $850,000.[4] In the meantime, PG&E continued pursuing FERC relicensing at an estimated cost of $2.85 million.[5] The resulting pre-tax loss on sale is projected to be approximately $5.5 million, with PG&E proposing that the majority of that loss be allocated to its ratepayers.[6]

III. DISCUSSION

PG&E has stated there were three options for the Merced Falls project: keep it, sell it, or surrender the FERC license and decommission it. Costs for all three options were projected in a net present value financial analysis using historic revenue and expense data, current forecasts of future operations and maintenance (O&M) costs, and projected replacement power costs.[7] The cost to ratepayers if PG&E were to keep the Project is estimated by PG&E to be $23.7 million[8] while

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[3] PG&E Prep. Test. at p. 2-4.

[4] PG&E Prep. Test. at p. 2-6.

[5] PG&E Appl. at 4.

[6] PG&E originally proposed that the entire loss on sale be allocated to ratepayers (*see* PG&E Appl. at 6.) In its Prepared Testimony at p. 1-3, however, PG&E offered to allocate $4,053 of the loss, one-third of the portion related to the value of land, roughly 0.07% of the loss, to shareholders.

[7] PG&E Prep. Test. at p. 1-2.

[8] *Id*.

under the decommissioning scenario it is estimated to be $30.1 million.[9] PG&E proposes to sell the project to MID. The ORA issue regarding the sale is whether it is reasonable for ratepayers to bear the entire loss on sale of $5.534 million as requested by PG&E.

PG&E provided 37 years of historical data to support its claim that the project produces 14.4 GWh of electricity each year. This data shows that for the first 26 years, from 1974 through 1999, the amount of electricity generated annually was over 15.4 GWh.[10] This time frame includes six years of drought from 1987-1992. When those drought years are removed, the average annual generation is 17.4 GWh.[11] This indicates that there is the potential for increased generation from the project when the weather improves, which in turn might indicate that PG&E's valuations of the project's future economics might be understated.

The project is not currently generating at the historical average level. Between 2000 and 2007, annual production averaged 12.4 GWh with one year (2006) at or above PG&E's stated average of 14.4 GWh.[12] The water flow into the project for those eight years appears to have been lower than it had been historically in other non-drought years. There is no explanation provided by PG&E for this except that the project is a "run of the river" powerhouse dependent on flow released by MID's upstream dam. The buyer in this transaction (MID) is the same entity that controls the flow of water into, and thusly, the annual production from the project. Despite this drop in production, PG&E made no effort to sell the project or consider other options[13] when it was more financially viable. More importantly, the FERC license was still in full effect during those years. If a sale had been made prior to the FERC relicensing requirement, then the FERC relicensing costs would have been incurred

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[9] *Id.*

[10] PG&E Responses to Data Request ORA-PG&E-001, question 1, attachment 3: MercedFalls_MonthlyGeneration.pdf (dated June 4, 2015).

[11] *Id.*

[12] *Id.*

[13] Offering the project at auction to another willing buyer or renegotiating terms with MID, for example.

by the new owner. The license renewal costs of $2.85 million will now provide a benefit for up to fifty years to the new owner, MID.[14]

In February 2009, PG&E filed a Notice of Intent (NOI) with FERC to begin the process of renewing its license.[15] PG&E claims that the talks with MID were stalled in late 2009 due, in part, to MID's focus on relicensing its own hydropower facilities, and its concerns about the "uncertain outcome" of the Merced Falls FERC relicensing process. Timothy Konnert, FERC's Western Division Chief, informed ORA[16] that the majority of costs in the relicensing process are incurred during the NOI period because this is when environmental impact studies are prepared, meetings with stakeholders are held, and state and local oversight agencies are initially engaged. When asked if there was a process by which FERC projects in close proximity to one another could be merged into one license, and if there could be cost savings from such an integration, Mr. Konnert answered affirmatively: integration is possible, on a case-by-case basis, when it can be considered prudent by FERC, and there could be cost savings from gained efficiencies if the required studies, meetings, oversight, etc. for both projects could be coordinated. In fact, Mr. Konnert said MID might apply to integrate the Merced Falls project with its own projects in the future. When asked if there was any uncertainty in the Merced Falls NOI process, Mr. Konnert replied that there is always some uncertainty in FERC licensing but it is mostly questions of costs and adaptions, rather than the license itself being in danger: mitigating damage to native wildlife, negotiating water release amounts to ensure irrigation needs are met, etc.

[14] The Federal Power Act (FPA) authorizes FERC to issue hydropower licenses for up to 50 years in length. 16 U.S.C. §§ 797, 798-802.

[15] The FERC license expired in February 2014 and has been extended annually since then. *See* PG&E Prep. Test. at p. 1-1.

[16] Append. 1, ORA telephone interview by Stacey Hunter with Timothy Konnert, FERC's Western Division Chief (Jan. 6, 2016).

Table ORA-1
Proposed Allocations of Gain/(Loss) on Sale

Assets	**PG&E's Proposed Allocation**		**ORA's Proposed Allocation**	
Depreciable Assets:*	**100% to Ratepayers**	**($5,526,031)**	**FERC relicensing costs to Shareholders^**	**($2,850,000)**
			Remainder to Ratepayers	**($2,676,031)**
Non-Depreciable Assets (Land):	**67% to Ratepayers**	**($8,228)**	**67% to Ratepayers**	**($8,228)**
	33% to Shareholders	**($4,053)**	**33% to Shareholders**	**($4,053)**
Total Pre-tax Gain/(Loss):		**($5,538,312)**		**($5,538,312)**
Total Allocation to Shareholders		**($4,053)**		**($2,854,053)**
Total Allocation to Ratepayers		**($5,534,259)**		**($2,684,259)**

* Depreciable Assets includes the relicensing costs in Construction Work in Progress (CWIP).
^ The $2.85 million in relicensing costs incurred through December 2014 consists of: preparation of the required FERC application and other filings ($570,000); performing required environmental studies ($990,000); conducting required consultation with agencies and stakeholders ($520,000); and Allowance for Funds Used During Construction ($770,000).[17]

IV. SUMMARY & RECOMMENDATION

While ORA does not oppose PG&E's proposed sale of the Merced Falls Project to MID, ORA recommends that ratepayers should not be allocated the costs related to FERC relicensing. Table ORA-1 above compares PG&E's revised requested allocation of the loss on sale of the Merced Falls Project versus ORA's recommendation. ORA recommends that PG&E's ratepayers bear only $2,684,259 of the proposed recovery.

PG&E management made a number of independent decisions regarding the Merced Falls project which resulted in increased costs that PG&E now requests to allocate to its ratepayers. Given the knowledge that the project was producing lower generation for many years, even before the current drought, PG&E could have more actively pursued selling the project much earlier before the costly NOI process was started. It could have settled on a lower price to offset some of the FERC-related

[17] PG&E prepared testimony, p. 2-7.

costs to MID and/or it could have negotiated the release of more water from MID's upstream project to improve the project's potential revenue. Instead, PG&E chose to wait *for years* for MID to decide – after the costs for the FERC license had been incurred, costs that could have been avoided to some degree had MID merged the project with its own before the NOI period – to agree to buy the project.

V. QUALIFICATIONS AND PREPARED TESTIMONY OF STACEY HUNTER

Q.1 Please state your name and address.

A.1 My name is Stacey Hunter. My business address is 505 Van Ness Avenue, San Francisco, California.

Q.2 By whom are you employed and in what capacity?

A.2 I am employed by the California Public Utilities Commission as a Public Utilities Regulatory Analyst IV in the Office of Ratepayer Advocates, Energy Cost of Service and Natural Gas Branch.

Q.3 Briefly describe your educational background and work experience.

A.3 I received a Bachelor of Sciences degree in Accounting from Golden Gate University.

I joined the Commission in the Office of Ratepayer Advocates in January 2003. I have prepared Human Resources testimony in recent Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company and Southern California Edison Company General Rate Cases. I have prepared other expense analysis testimony in many other proceedings. I also review certain advice letter filings on behalf of ORA.

Q.4 What is your area of responsibility in this proceeding?

A.4 I am responsible for Exhibit ORA-1, which addresses PG&E's proposed sale of its Merced Falls Hydroelectric Project.

Q.5 Does that complete your prepared testimony?

A.5 Yes, it does.

VI. APPENDIX 1 – DECLARATION OF STACEY HUNTER

I, Stacey Hunter, declare:

1. I am employed by the California Public Utilities Commission as a Public Utilities Regulatory Analyst IV in the Office of Ratepayer Advocates, Energy Cost of Service and Natural Gas Branch, and am assigned to the proceeding PG&E, A.15-04-003.
2. On or about January 6, 2016, I conducted a telephone interview with Timothy Konnert, FERC's Western Division Chief, during which Mr. Konnert stated the following:
   2.1. The majority of costs in the relicensing process are incurred during the NOI period, because this is when environmental impact studies are prepared, meetings with stakeholders are held, and state and local oversight agencies are initially engaged.
   2.2. When I asked Mr. Konnert if there was a process by which FERC projects in close proximity to one another could be merged into one license, and if there could be cost savings costs resulting from such an integration, Mr. Konnert answered affirmatively as follows: integration is possible, on a case-by-case basis, when it can be considered prudent by FERC, and there could be cost savings from gained efficiencies if the required studies, meetings, oversight, etc. for both projects could be coordinated. Mr. Konnert also said that MID might apply to integrate the Merced Falls project with its own projects in the near future.
   2.3. When I asked Mr. Konnert if there was any uncertainty in the Merced Falls NOI process, he replied that there is always some uncertainty in FERC licensing but it is mostly questions of costs and adaptions, such as mitigating damage to native wildlife, negotiating water release amounts to ensure irrigation needs are met, etc., rather than the license itself being in danger

I declare under penalty of perjury that the foregoing is true and correct.

Date and place: January 22, 2016, San Francisco, California.

/s/ Stacey Hunter

Stacey Hunter