

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: December 3, 2007
Executive Summary
Request for Initial Resolution Extension

Prepared by: *Michael Smith*

Applicant:	Pacific Gas and Electric Company and/or its Affiliates (“Company” or “PG&E”)	Amount Requested:	\$200,000,000
Project	San Luis Obispo	Application No.:	425
Location:	(San Luis Obispo County)	Initial Resolution No.:	IR 83-21 approved 12/16/83 IR 83-21 amended 12/31/96 IR 83-21 amended 12/12/06

Type of Business: PG&E is a public utility company that provides electric and natural gas service throughout most of Northern and Central California.

Background Information: The Company owns and operates two generating units at the Diablo Canyon Nuclear Power Plant. The original Initial Resolution No. 83-21 adopted on December 16, 1983 authorized the issuance of \$107,425,000 in bonds. Subsequent to the original adoption, the IR was amended in 1993 to increase the amount to \$1,410,000,000 and extended to December 31, 1996. Prior to the December 31, 1996 expiration date, the IR was further extended to December 31, 2006. On December 12, 2006 the Authority granted a one-year extension.

During the period between 1983 and 1993, PG&E continued to complete its projects and, as volume cap became available, the Company requested and received approval for several Final Resolutions to fund qualified costs. In 1985, 1987, 1992, and 1993, the Authority issued bonds to finance certain solid waste disposal facilities as well as certain sewage disposal and air and water pollution control facilities at Diablo Canyon for a cumulative total of approximately \$1,210,000,000, leaving a balance of \$200,000,000 available under its IR to fund remaining qualified costs.

Qualified costs include certain air and water pollution control facilities that generally no longer qualify for tax-exempt financing after the Tax Reform Act of 1986. In a 1988 private letter ruling issued to the Company, the IRS ruled that certain pollution control facilities at Diablo Canyon (a) continue to qualify for tax-exempt financing by reason of a September 26, 1985 “under construction” transition rule which, in part, preserves the right to finance with tax-exempt funds air and water pollution control facilities and other qualified facilities not yet funded with tax-exempt bonds; and (b) may be financed with tax-exempt bonds issued many years after the facilities were placed in service by reason of another special transition rule that applies to facilities like Diablo Canyon, the construction of which commenced prior to September 2, 1972.

Current Request: The Company is requesting to further extend IR No. 83-21 to preserve its right to issue tax-exempt bonds for the additional \$200,000,000 of qualified costs.

Discussion: CPCFA policy generally allows a three-year extension to Initial Resolutions. The one-year extension granted December 12, 2006 was based on several factors. CPCFA and

counsel believed a policy review would be required due to the complexity of the environmental, policy, and legal issues raised by this Project. Bond Counsel and Issuer’s Counsel indicated that a full tax analysis would also take considerably longer than the time available prior to the December 2006 Authority meeting. Rather than letting the IR lapse, and possibly losing the coverage of the “lookback” for some Project components, CPCFA recommended allowing a one-year extension. Currently, CPCFA believes a full policy review and tax analysis will only be required when PG&E returns with a Final Resolution request. This extension will be granted solely for the purpose of preserving the 1983 “lookback” for tax purposes.

Public Benefits: Because the Company’s rates for utility service are adjusted periodically to reflect the Company’s actual cost of debt, the Company expects that the benefit from lower interest rates associated with these tax-exempt bonds will be passed along to the Company’s ratepayers in future rate proceedings. Other public benefits related to pollution control or energy efficiency have not been verified by staff and may be subject to a full policy review prior to the Authority’s consideration of a Final Resolution or another Initial Resolution Extension.

Permits: The Company will provide the Authority with copies of all required discretionary permits prior to requesting approval for final resolution.

Financing Team:

- Underwriter:** Goldman, Sachs & Co.
- Company Counsel:** Orrick Herrington & Sutcliffe, LLP
- Bond Counsel:** To Be Determined

Legal Questionnaire: Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the Application. No information was disclosed that raises questions concerning the financial viability or legal integrity of this applicant.

Staff Recommendation: Staff recommends that the Board approve a three-year extension of this Initial Resolution, as is standard practice for CPCFA. As staff pointed out in the December, 2006 CPCFA meeting, there are legal concerns raised in the Legal Questionnaire and the outstanding policy questions about the public benefits of this Project. This extension will be granted for the purpose of preserving the 1983 lookback for tax purposes. Before CPCFA considers a Final Resolution, issues raised in the Legal Questionnaire must be addressed to the satisfaction of the Board. Further, staff plans to conduct a policy review of the technology involved in this project before any Final Resolution comes to CPCFA. The granting of this Initial Resolution extension request will not constitute the promise of a future IR extension or amendment or a promise of a Final Resolution.

Note: An Initial Resolution approval is not a commitment that the Board will approve a Final Resolution and bond financing of the proposed Project.

**EXTENSION OF INITIAL RESOLUTION
TO ISSUE REVENUE BONDS TO FINANCE FACILITIES FOR
PACIFIC GAS AND ELECTRIC COMPANY**

WHEREAS, the California Pollution Control Financing Authority (“Authority”) by its Resolution No. 83-21, as subsequently amended and extended (“Initial Resolution”), has heretofore approved the application of PACIFIC GAS AND ELECTRIC COMPANY (“Company”), as amended, for financial assistance in connection with the Company’s acquisition and construction of certain pollution control, sewage and solid waste disposal facilities described in its application for such approval (“Project”) and has declared its official intent to issue up to \$1,410,000,000 aggregate principal amount of revenue bonds to provide such financial assistance; and

WHEREAS, the Authority previously has issued an aggregate principal amount of approximately \$1,210,000,000 of revenue bonds to provide financial assistance to the Company in connection with its acquisition and construction of the Project, as well as additional refunding revenue bonds to refinance many of those revenue bonds; and

WHEREAS, the Initial Resolution was adopted on December 16, 1983, amended on December 31, 1993, and subsequently extended, first to December 31, 1996, then to December 31, 2006, then to December 31, 2007; and

WHEREAS, the Company has requested that the Authority again extend the effective date of the Initial Resolution from December 31, 2007, to December 31, 2010; and

WHEREAS, the Authority has determined that it is necessary and advisable that the effective date of the Initial Resolution be extended from December 31, 2007, to December 31, 2010;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The effective date of the Initial Resolution is hereby extended from December 31, 2007 to and including December 31, 2010.

Section 2. Except as amended by Section 1 hereof, all provisions and conditions of the Initial Resolution shall remain unchanged and in full force and effect.

Section 3. The officers of the Authority or the duly authorized deputies thereof are hereby authorized and directed jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to

Agenda Item – 4.B.1.

communicate the extension of the Initial Resolution to the Company and otherwise to effectuate the purposes of this Resolution.