

Staff Report 46

LESSEE:

Pacific Gas and Electric Company

PROPOSED ACTION:

Continuation of Rent and Revision of Bond

AREA, LAND TYPE, AND LOCATION:

Sovereign land in various waterways, in various counties, statewide.

AUTHORIZED USE:

Continued use and maintenance of transportation, distribution, and gathering pipelines to transport natural gas.

TERM:

20 years, beginning January 1, 2012.

CONSIDERATION:

This lease provides that Lessor may modify the rent periodically during the lease term. Pursuant to this provision, staff has conducted a review of the rent under this lease and recommends a continuation of rent at \$55,646.14, adjusted annually by the Consumer Price Index, and an increase in the surety bond from \$560,000 to \$840,000, effective January 1, 2024.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the revision of bond is a discretionary action by the Commission. Each time the Commission approves or rejects a revision of bond, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Lands as authorized by law. Upon expiration or prior termination of the lease, the Lessee has no right to a new lease or to renewal of any previous lease.

2. On January 26, 2012, the Commission authorized a General Lease – Right-of-Way Use ([January 26, 2012, Item 33](#)) to the lessee for 28 existing natural gas pipeline crossings in various sovereign land waterways across the state. The initial first year base rent was set at \$10,000 with a provision for a new base rent to be set within the first year of the lease. On October 19, 2012, the Commission authorized an amendment to clarify the terms of determining the base rent and adjusting the annual rent by the CPI ([October 19, 2012, Item 55](#)). In 2014, staff conducted a review of the rent and determined that the new base rent would be based on the methodology of five cents per diameter inch per lineal foot, or the minimum annual rent for right-of-way use, as set forth in the Commission's regulations. The parties agreed that, since the Commission's regulations to increase the diameter inch per lineal foot method were not approved by the Office of Administrative Law until July 1, 2014, the new base rent would be effective January 1, 2015. On August 15, 2014, the Commission authorized a new base rent, adjusted annually by the CPI ([August 15, 2014, Item 41](#)). On August 17, 2017, the Commission authorized an amendment of lease ([August 17, 2017, Item 37](#)) for the decommissioning and abandonment-in-place of a 10-inch-diameter transmission pipeline (#57A-MD3/A16) beneath Whiskey Slough. The lease provides for review of the rent on the 10th anniversary of the lease. The lease will expire on December 31, 2031.
3. The lease required initial depth of coverage burial surveys of the submerged pipelines in 2012 and every five years thereafter. Surveys were submitted in 2022 and staff are working with the lessee to determine needed remediation.
4. Under the terms of the current lease, Lessee holds a surety bond in the amount of \$560,000. This amount is subject to increases over the lease term and serves the purpose of being able to mitigate costs that might otherwise be shouldered by the state, including where the state must take restorative actions with the leased premises upon lease termination or lease premises abandonment. Due to the various locations and facilities statewide, the bond was set based on a fixed \$20,000 per crossing for a total of \$560,000. To be consistent with other leases, an increase from \$20,000 to \$30,000 per crossing is recommended. The lease provides that in the event of a default and in order to cure it, the Commission may call upon the entire bond amount and not be limited to the bond amount for an individual crossing. Staff recommends an increase in the surety bond from \$560,000 to \$840,000.
5. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.

6. Approval of continuation of rent and revision of bond is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

RECOMMENDED ACTION:

It is recommended that the Commission:

AUTHORIZATION:

Approve the continuation of rent for Lease PRC 5438-A at \$55,646.14, adjusted annually by the Consumer Price Index, and increase the surety bond from \$560,000 to \$840,000, effective January 1, 2024.