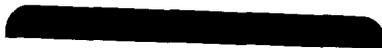


DC



DIVISION OF CORPORATION FINANCE

UNITED STATES SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549-0402



05048970

March 25, 2005

PROCESSED

APR 12 2005

THOMSON FINANCIAL

Gary P. Encinas
Chief Counsel, Corporate
Law Department
PG&E Corporation
One Market, Spear Tower
Suite 400
San Francisco, CA 94105

Act: 1934
Section:
Rule: 14A-8
Public
Availability: 3/25/2005

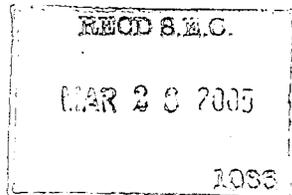
Re: PG&E Corporation
Incoming letter dated January 28, 2005

Dear Mr. Encinas:

This is in response to your letter dated January 28, 2005 concerning the shareholder proposal submitted to PG&E by the Ray T. Chevedden and Veronica G. Chevedden Family Trust. On January 21, 2005, we issued our response expressing our informal view that PG&E could not exclude the proposal from its proxy materials for its upcoming annual meeting.

We received your letter after we issued our response. After reviewing the information contained in your letter, we find no basis to reconsider our position.

Sincerely,



Jonathan A. Ingram
Jonathan A. Ingram
Deputy Chief Counsel

cc: John Chevedden
2215 Nelson Avenue, No. 205
Redondo Beach, CA 90278

PROCESSED

APR 12 2005

THOMSON FINANCIAL

1/28/05 11:39 AM  
RECEIVED  
SEC MAIL  
WASH. D.C. 213  
SECTION

January 28, 2005

**VIA FEDERAL EXPRESS**

Securities and Exchange Commission  
Division of Corporation Finance  
450 Fifth Street, NW  
Washington, DC 20549



Re: Shareholder Proposal of the Chevedden Trust

Ladies and Gentlemen:

PG&E Corporation is responding to a December 30, 2004 letter that John Chevedden sent to the Securities and Exchange Commission (SEC) Office of Chief Counsel ("Chevedden Letter") regarding a shareholder proposal and supporting statement (the Proposal) submitted by Ray T. Chevedden, on behalf of the Chevedden Family Trust. The Proposal was submitted for inclusion in PG&E Corporation's 2005 proxy statement. Mr. Ray T. Chevedden has designated Mr. John Chevedden to act as the Trust's representative with respect to the Proposal.

Background

The Proposal recommends that the PG&E Corporation Board of Directors adopt a policy or bylaw requiring that future poison pills be redeemed or put to shareholder vote within 4 months after adoption by the Board of Directors.

On December 22, 2004, PG&E Corporation requested that the SEC issue a No-Action Letter, concurring that PG&E Corporation could omit the Proposal from the Corporation's 2005 proxy materials. PG&E Corporation believes that it has substantially implemented the Proposal. In June 2004 the Corporation's Board of Directors adopted a policy that, if the Board voted to adopt or extend the term of a shareholder rights plan, the Board must submit that action to shareholder vote within 12 months (the Policy).

Six copies of this letter will be sent to the SEC Division of Corporate Finance. Copies of the Corporation's No-Action Letter request, the Chevedden Letter, the Proposal, and the Corporation's June 29, 2004 press release announcing the Policy, also are enclosed.

### Corporation Response

The Chevedden Letter appears to raise three specific objections to PG&E Corporation's December 22, 2004 No-Action Letter request.

1. Mr. Chevedden states that the Corporation has (a) conceded that the Policy and the Proposal are materially different and therefore (b) cannot claim that the Policy substantially implements the Proposal (see paragraph 3, Chevedden Letter)

The Proposal sets out the proponent's **belief** that there is a material difference between a 4-month and a 12-month window for obtaining shareholder vote. The Chevedden Letter states that the Corporation implicitly accepts this belief as being true, because the Corporation did not challenge the accuracy of this belief.

Obviously, if the Corporation agreed with Mr. Chevedden, it would not be requesting the SEC staff to concur that the Proposal can be omitted from the Corporation's proxy statement. The Corporation has no obligation to correct or challenge factual inaccuracies in any Rule 14a-8 shareholder proposal. According to Rule 14a-8(l), the Corporation is not responsible for the content of Rule 14a-8 proposals or their supporting statements. In fact, Staff Legal Bulletin No. 14B cites Rule 14a-8(l) to suggest that companies as a whole are overzealously challenging the wording of Rule 14a-8 proposals.

Further, the Corporation is unlikely to be successful in challenging a proponent's statement of belief as opposed to a statement of purported fact. The SEC staff routinely permits shareholders to recast portions of supporting statements as opinions, so those statements will not violate Rule 14a-8(i)(3). (See, e.g., SEC No-Action Letter, February 6, 2004, Boeing Corporation.)

2. Mr. Chevedden states that the Policy is not identical to policies in No-Action Letters cited in the Corporation's No-Action Letter request (see paragraph 5, Chevedden Letter)

The Corporation's No-Action Letter request cites five No-Actions Letters. These citations support the Corporation's position that any timing differences between the windows for shareholder vote in the Policy and in the Proposal are insignificant when assessing whether the Proposal may be excluded pursuant to Rule 14a-8(i)(10). The Corporation does not base its argument on whether the Policy is identical to policies in the cited No-Action Letters in any other respect.

Securities and Exchange Commission  
January 28, 2005  
Page 3

3. Mr. Chevedden states that the Corporation has not provided evidence of the Policy (see paragraph 6, Chevedden Letter.)

The Corporation's December 22, 2004 letter accurately set forth the Policy. The Corporation publicly announced the Policy in a press release issued on June 29, 2004. (See enclosed copy.) The press release also is available on the Corporation's web-site.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to call me at (415) 817-8201, or Frances Chang at (415) 817-8207. If possible, I would appreciate it if the Staff would send a copy of its response to the December 22, 2004 No-Action Letter Request to me by fax at (415) 817-8225 when it is available. We will promptly forward a copy of the SEC response to Ray Chevedden and to his representative, John Chevedden.

Please confirm this filing by returning a receipt-stamped copy of this letter. An extra copy of this letter and a pre-addressed postage paid envelope are enclosed.

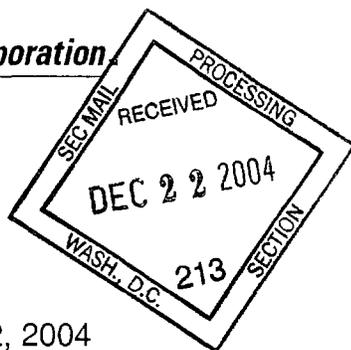
Thank you for your attention to this matter.

Very truly yours,

  
Gary P. Encinas

Enclosures

cc: John Chevedden  
Ray T. Chevedden  
Linda Y.H. Cheng



**Gary P. Encinas**  
Chief Counsel, Corporate  
Law Department

One Market, Spear Tower  
Suite 400  
San Francisco, CA 94105  
415.817.8201  
Fax: 415.817.8225  
gary.encinas@pge-corp.com

December 22, 2004

**VIA FEDERAL EXPRESS**

Securities and Exchange Commission  
Division of Corporation Finance  
450 Fifth Street, NW  
Washington, DC 20549

Re: Shareholder Proposal of the Chevedden Trust

RECEIVED  
2004 DEC 23 AM 10:13  
CORPORATION FINANCE

Ladies and Gentlemen:

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), we request confirmation that the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") will not recommend any enforcement action if, in reliance on certain provisions of Rule 14a-8, PG&E Corporation, a California corporation, excludes the shareholder proposal and accompanying supporting statement ("Proposal") described below from the proxy statement, form of proxy and other proxy materials for its 2005 Annual Meeting of Shareholders (the "2005 Proxy Materials"). The Proposal was submitted by Ray T. Chevedden, on behalf of the Ray T. Chevedden and Veronica G. Chevedden Family Trust (the Trust). Mr. John Chevedden has been designated to act on behalf of the Trust with respect to the Proposal.

We have enclosed six copies of this letter and the Proposal and attached all other related correspondence. A copy of this letter is also being sent to John Chevedden and the Trust (c/o Ray T. Chevedden), as notice of the Corporation's intent to omit the Proposal from the Corporation's 2005 Proxy Materials.

For the reasons set forth below, PG&E Corporation intends to omit the Proposal from the 2005 Proxy Materials.

**THE PROPOSAL**

On October 27, 2004, PG&E Corporation received a letter from Ray T. Chevedden, containing the following proposal for consideration at PG&E Corporation's 2005 Annual Meeting of Shareholders.

**Resolved:** Shareholders request that our Board adopt a policy that any future poison pill be redeemed or put to a shareholder vote within 4-months after it is adopted by our Board. And formalize this policy as corporate governance policy or bylaw.

## **BACKGROUND**

On June 29, 2004, the Corporation announced that its Board of Directors had approved a policy regarding future shareholder rights plans. The policy provides that if the Board adopts a shareholder rights plan in the future, or if the Board extends the term of a future shareholder rights plan, it will submit such adoption or extension to a shareholder vote within 12 months of such adoption or extension (the Policy). The Corporation believes the Policy provides the Board of Directors with the flexibility to adopt or extend a shareholder rights plan in a manner and in a timeframe consistent with the Board's duty to act in the best interests of the Corporation and its shareholders and still subjects any such shareholder rights plan to shareholder vote within a reasonable time period.

Among other things, the Policy responds to the fact that shareholders at the 2004 annual meeting approved a proposal relating to shareholder rights plans. More details regarding the history of shareholder rights plans and shareholder proposals follow:

- In December 2000, the Corporation's Board of Directors adopted a Shareholder Rights Plan (Plan). The Plan was adopted at the height of the California energy crisis when the Corporation and its subsidiary, Pacific Gas and Electric Company, were facing an uncertain future.
- At the Corporation's 2003 annual shareholder meeting, shareholders approved a proposal recommending that the Board of Directors redeem the Plan and not adopt or extend any shareholder rights plan unless such adoption or extension was submitted to a shareholder vote. This proposal was represented by John Chevedden.
- On February 18, 2004, PG&E Corporation's Board of Directors voted to terminate the Corporation's Shareholder Rights Plan upon Pacific Gas and Electric Company's impending exit from Chapter 11.
- On April 12, 2004, Pacific Gas and Electric Company emerged from bankruptcy, and all rights issued under the Plan expired on that date.
- At the Corporation's 2004 annual shareholder meeting, shareholders approved a proposal recommending that the Board of Directors submit any adoption, maintenance or extension of a poison pill to a shareholder vote as a separate ballot item on the earliest possible shareholder ballot and that any material change or

discontinuing of the proposal be submitted to a shareholder vote as a separate ballot item on the earliest possible shareholder ballot. This proposal also was represented by John Chevedden.

### REASON FOR OMISSION

**1. The Corporation has substantially implemented the Proposal, and may exclude the Proposal pursuant to Rule 14a-8(i)(10).**

Rule 14a-8(i)(10) provides that an issuer may omit a shareholder proposal from the issuer's proxy materials if the issuer has already substantially implemented the proposal. The Corporation believes that the Board's adoption of the Policy substantially implemented the Proposal within the meaning of Rule 14a-8(i)(10).

The Proposal requests a shareholder vote on any future shareholder rights plan. In this respect, the Policy and the Proposal are the same. However, there are two primary differences between the Policy and the Proposal: (1) the Policy also requires a shareholder vote regarding extension of any shareholder rights plan, and thus is more comprehensive in scope than the Proposal and (2) the Policy and the Proposal differ in the amount of time during which the shareholder vote would occur (the Policy states 12 months from Board action and the Proposal states 4 months).

Pursuant to Rule 142-8(i)(10) and its predecessor, since 1983 the Staff has permitted the exclusion of proposals that had been "substantially implemented" even if not in exactly the same manner as proposed. During the 2004 proxy season, the SEC Staff issued five No-Action Letters concurring that the requesting company had grounds under Rule 14a-8(i)(10) to omit proposals were the differences between the shareholder proposal and the company practice were similar to the differences between the Policy and the Proposal. See Borders Group, Inc., SEC No-Action Letter, March 1, 2004; Bristol-Myers Squibb Company, SEC NO-Action Letter, February 11, 2004; General Motors Corporation, SEC No-Action Letter, March 3, 2004; Exxon Mobile Corporation, SEC No-Action Letter, February 23, 2004; and Safeway, Inc., SEC No-Action Letter, April 1, 2004.

Specifically, each of the five proposals recommended that shareholders vote on the adoption, maintenance, or extension of any poison pill as a separate item at the next shareholder meeting/ballot.<sup>1</sup> The boards of directors of each of the five companies had adopted a policy or board resolution requiring, in part, that if the board adopted a rights

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<sup>1</sup> The proposals also requested that, once the company implemented the proposal (e.g., as a policy or resolution), shareholder vote would be required to dilute or remove the implementing policy/resolution.

plan without prior shareholder approval, the rights plan would be submitted to shareholder vote within one year. In Mr. Chevedden's correspondence arguing that his proposal was not "substantially implemented" by the company policies/resolutions, he objected to the one-year for obtaining shareholder vote, among things. However, in each case, the SEC Staff issued a No-Action Letter concurring with the company's omission of the proposal, stating that the company "has adopted [a policy/resolutions] that requires [a] shareholder approval in adopting any [rights plan/poison pills]."

The Policy requires that shareholders vote on the adoption or redemption of any shareholder rights plans, and therefore addresses the primary purpose of the Proposal. Consistent with prior SEC No-Action Letters, any timing differences between the Policy and the Proposal are not substantial, and the Policy "substantially implements" the Proposal for purposes of Rule 14a-8(i)(10).

Based on the foregoing, it is my opinion that the Proposal is excludable from the Corporation's 2005 Proxy Materials under Rule 14a-8(i)(10).

### CONCLUSION

For the foregoing reasons, PG&E Corporation believes that the Corporation may properly omit the Proposal from its 2005 Proxy Materials.

We respectfully request confirmation that the Staff will not recommend any enforcement action if the Proposal is excluded. If the Staff does not concur with this position, we would appreciate an opportunity to confer with the Staff concerning these matters before the Staff issues its Rule 14a-8 response.

PG&E Corporation intends to release definitive copies of its 2005 Proxy Materials to its shareholders on or about **March 16, 2005**, and plans to submit a draft of the 2005 Proxy Materials to its printer by **March 3, 2005**. Accordingly, we would appreciate the Commission's response as promptly as possible.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to call me at (415) 817-8201, or Frances Chang at (415) 817-8207. If possible, I would appreciate it if the Staff would send a copy of its response to this request to me by fax at (415) 817-8225 when it is available. We will promptly forward a copy of the SEC response to Ray Chevedden and to his representative, John Chevedden.

Please confirm this filing by returning a receipt-stamped copy of this letter. An extra copy of this letter and a pre-addressed postage paid envelope are enclosed.

Securities and Exchange Commission  
December 22, 2004  
Page 5

Thank you for your attention to this matter.

Very truly yours,



Gary P. Encinas

Enclosures

cc: John Chevedden  
Ray T. Chevedden  
Linda Y.H. Cheng

6 Copies  
7th Copy for Date-Stamp Return

December 30, 2004

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549

**PG&E Corporation (PCG)  
Shareholder Position on Company No-Action Request  
Rule 14a-8 Proposal: Poison Pill Vote within 4-Months  
Proponent: Ray T. Chevedden**

Ladies and Gentlemen:

This rule 14a-8 proposal reads:

“RESOLVED: Shareholders request that our Board adopt a policy that any future poison pill be redeemed or put to a shareholder vote within 4-months after it is adopted by our Board. And formalize this policy as corporate governance policy or bylaw.”

The next paragraph of the proposal states:

“I believe that there is a material difference between a shareholder vote within 4-months in contrast to our current 12-month lag in a vote. A 12-month delay could guarantee that a poison pill stays effective through an entire proxy contest. This could result in us as shareholders losing a profitable offer for our stock – or an exchange for shares in a more valuable company. I believe that even if a special election would be needed, the cost would be relatively trivial in comparison to the potential loss of a valuable offer.”

The company apparently accepts without objection the accuracy of the second paragraph of the proposal regarding the “material difference between a shareholder vote within 4-months in contrast to our current 12-month lag in a vote.” According to rule 14a-8 the company has the right to challenge the accuracy of rule 14a-8 proposal text and the company has not done so.

I believe that it may be fatally inconsistent for a company to claim that it has “substantially implemented” a proposal after it implicitly accepts a “material difference” between the proposal and its current “Policy.”

There is a substantial difference between the text of this proposal to PG&E Corporation for the 2005 annual meeting and the company-cited old proposal to Borders Group, Inc. (March 1, 2004). The proposal to Borders was similar to the old proposal to the Hewlett-Packard Company (December 24, 2003) and a number of other companies for 2004 annual meetings:

“RESOLVED: Shareholders request that our Directors increase shareholder rights and submit the adoption, maintenance or extension of any poison pill to a shareholder vote. Also once this proposal is adopted, dilution or removal of this proposal is requested to be submitted to a

shareholder vote at the earliest next shareholder election. Directors have discretion in responding to shareholder votes.”

Since there was no copy of the company “Policy” with the shareholder copy of the no action request it is reasonable to believe that the company did not forward any such copy to the Staff. Therefore the company has not even provided minimal evidence to support its position. Since the company did not include its “Policy” it has not provided evidence to check whether a purported shareholder vote would be trumped by withdrawing the pill before the vote would be held.

For the above reasons it is respectfully requested that concurrence not be granted to the company.

Sincerely,

  
John Chevedden

cc: Gary Encinas

Ray T. Chevedden  
5965 S. Citrus Ave.  
Los Angeles, CA 90043

Mr. Robert Glynn, Jr.  
Chairman  
PG&E Corporation (PCG)  
One Market, Spear Tower, Suite 2400  
San Francisco, CA 94105  
PH: 415-267-7000  
FX: 415-267-7267

Dear Mr. Glynn,

This Rule 14a-8 proposal is respectfully submitted to advance the long-term performance of our company. This proposal is submitted for the next annual shareholder meeting. Rule 14a-8 requirements are intended to be met including the continuous ownership of the required stock value until after the date of the applicable shareholder meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication. This is the proxy for Mr. John Chevedden and/or his designee to act on my behalf in shareholder matters, including this Rule 14a-8 proposal for the forthcoming shareholder meeting before, during and after the forthcoming shareholder meeting. Please direct all future communication to Mr. Chevedden at:

2215 Nelson Ave., No. 205  
Redondo Beach, CA 90278  
PH: 310-371-7872

Your consideration and the consideration of the Board of Directors is appreciated.

Sincerely,

Ray T. Chevedden

Ray T. Chevedden

10-17-04

Date

Ray T. Chevedden and Veronica G. Chevedden family Trust 050490  
Shareholder

cc: Linda Y.H. Cheng  
Corporate Secretary  
PH: 415-267-7070  
FX: 415-267-7260  
FX: 415-267-7268

### **3 - Redeem or Vote Poison Pill**

RESOLVED: Shareholders request that our Board adopt a policy that any future poison pill be redeemed or put to a shareholder vote within 4-months after it is adopted by our Board. And formalize this policy as corporate governance policy or bylaw.

I believe that there is a material difference between a shareholder vote within 4-months in contrast to our current 12-month lag in a vote. A 12-month delay could guarantee that a poison pill stays effective through an entire proxy contest. This could result in us as shareholders losing a profitable offer for our stock – or an exchange for shares in a more valuable company. I believe that even if a special election would be needed the cost would be relatively trivial in comparison to the potential loss of a valuable offer.

Ray T. Chevedden, 5965 S. Citrus Ave., Los Angeles, Calif. 90043 submitted this proposal.

#### **Pills Entrench Current Management**

“They [poison pills] entrench the current management, even when it’s doing a poor job. They [poison pills] water down shareholders’ votes and deprive them of a meaningful voice in corporate affairs.”

“Take on the Street” by Arthur Levitt, SEC Chairman, 1993-2001

#### **Like a Dictator**

“[Poison pill] That’s akin to the argument of a benevolent dictator, who says, ‘Give up more of your freedom and I’ll take care of you.’”

T.J. Dermot Dunphy, CEO of Sealed Air (NYSE) for 25 years

#### **Poison Pill Negative**

“That’s the key negative of poison pills – instead of protecting investors, they can also preserve the interests of management deadwood as well.”

*Morningstar.com*, Aug. 15, 2003

#### **The Potential of a Tender Offer Can Motivate Our Directors**

Hectoring directors to act more independently is a poor substitute for the bracing possibility that shareholders could sell the company out from under its present management.

*Wall Street Journal*, Feb. 24, 2003

#### **Stock Value**

I believe that if a poison pill makes our company difficult to sell – or to exchange for shares in a more valuable company – that the value of our stock suffers.

### **Redeem or Vote Poison Pill**

**Yes on 3**

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#### **Notes:**

The above format is the format submitted and intended for publication.

The company is requested to assign a proposal number (represented by "3" above) based on the chronological order in which proposals are submitted. The requested designation of "3" or higher number allows for ratification of auditors to be item 2.

Please note that the title of the proposal is part of the argument in favor of the proposal. In the interest of clarity and to avoid confusion the title of this and each other ballot item is requested to be consistent throughout the proxy materials.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004.

Please advise if there is any typographical question.

Verification of stock ownership will be forwarded.

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responsibility](#)[Search](#)

## PRESS RELEASES | 2004

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FOR IMMEDIATE RELEASE

June 29, 2004

ISSUED BY: PG&amp;E News Department (415) 973-5930

### **PG&E CORP. ADOPTS POLICY ON SHAREHOLDER RIGHTS PLAN**

(San Francisco) - PG&E Corporation announced today that its Board of Directors has approved a policy regarding future shareholder rights plans. The policy provides that if the Board adopts a shareholder rights plan in the future, or if the Board extends the term of a future shareholder rights plan, it will submit such adoption or extension to a shareholder vote within 12 months of such adoption or extension. PG&E Corporation's shareholders approved a non-binding proposal on this issue at the Corporation's annual meeting on April 21, 2004.

As previously announced, in February 2004, the Board voted to terminate the Corporation's then-existing shareholder rights plan upon Pacific Gas and Electric Company's exit from Chapter 11. Pacific Gas and Electric Company emerged from Chapter 11 on April 12, 2004, and the rights that previously had been issued under the plan expired on that date.

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