

122 FERC ¶ 61,065  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Pacific Gas and Electric Company

Docket Nos. ER08-267-000  
ER07-1213-000

ORDER ACCEPTING AND SUSPENDING REVISED  
TRANSMISSION AGREEMENTS, ESTABLISHING HEARING  
AND SETTLEMENT JUDGE PROCEDURES,  
AND CONSOLIDATING PROCEEDINGS

(Issued January 30, 2008)

1. In this order, we accept for filing Pacific Gas and Electric's (PG&E) proposed revisions to transmission agreements for four existing transmission contract customers, suspend them five months, to be effective July 1, 2008, subject to refund. We also establish hearing and settlement judge procedures. Finally, we consolidate PG&E's filing in this docket with the ongoing proceeding involving PG&E's Transmission Owner (TO10) Tariff currently pending in Docket No. ER07-1213-000.<sup>1</sup>

**Background**

2. PG&E provides firm transmission service to certain customers under existing transmission contracts (ETCs).<sup>2</sup> On November 30, 2007, PG&E filed revisions to four customers' ETCs.<sup>3</sup> PG&E is proposing two types of changes to the transmission rate

---

<sup>1</sup> See *Pacific Gas and Elec. Co.*, 120 FERC ¶ 61,296 (2007).

<sup>2</sup> An ETC is a contractual obligation of a California Independent System Operator Corporation (CAISO) Participating Transmission Owner (PTO), established prior to the start-up of the CAISO, to provide transmission service to another party in accordance with terms and conditions specified in the contract, utilizing transmission facilities owned by the PTO that have been turned over to CAISO operational control pursuant to the Transmission Control Agreement.

<sup>3</sup> The affected customers are: San Francisco Bay Area Rapid Transit District (BART); California Department of Water Resources, State Water Project (SWP); Sacramento Municipal Utility District (SMUD); and Transmission Agency of Northern California (TANC).

calculations. First, PG&E proposes to revise SWP's, SMUD's and TANC's ETCs to convert the existing volumetric rate methodology to a contract demand rate methodology.<sup>4</sup> PG&E notes that contract demand rate methodology is the traditional method used for billing ETC customers, and points out that it was the method used when the ETCs at issue in this proceeding were first accepted by the Commission. PG&E explains that current volumetric rate methodology was implemented as part of a settlement in the last rate case affecting these ETC customers.<sup>5</sup> In this filing, PG&E proposes to return to the original contract demand rate methodology for SWP's, SMUD's and TANC's ETCs.

3. Second, PG&E proposes to increase the rates for all four customers to reflect its current cost of providing wholesale transmission service. PG&E notes that its transmission revenue requirement has increased since the last time the rates for these customers were changed in 2003.<sup>6</sup> PG&E declares that the proposed rate changes represent a rate increase of approximately \$23.8 million. PG&E notes that the cost support data provided in this filing in support of this rate increase is identical to the cost-of-service data filed in its TO10 rate proceeding currently pending in Docket No. ER07-1213-000. In addition, PG&E states that it is making one adjustment to the cost-of-service to reflect costs it will incur in 2008 as a result of a recent settlement in another proceeding.<sup>7</sup>

4. PG&E also proposes changes relating to its Scheduling Coordinator and Path 15 ETC Facilitator obligations. PG&E explains that it currently acts as the Scheduling Coordinator for BART's ETC service and as the Path 15 ETC Facilitator for SWP and TANC. PG&E explains that, with the advent of CAISO's Market Redesign and

---

<sup>4</sup> PG&E states that it is not proposing changes to BART's ETC rate methodology because BART's rates are currently based on a cost allocation methodology that relies on peak loads.

<sup>5</sup> In the 2004 settlement, these customers' transmission rates were revised to replace a sub-functionalized rate methodology with a High Voltage/Low Voltage rate methodology using a volumetric or megawatt hour rate. *See Pacific Gas and Elec. Co.*, 108 FERC ¶ 61,169 (2004) (order approving partial uncontested settlement).

<sup>6</sup> PG&E claims that its Transmission Owners Tariff wholesale transmission revenue requirement increased from \$479 million in test year 2003 to \$750 million for test year 2008.

<sup>7</sup> The settlement, involving the use of certain California-Oregon Intertie facilities, requires PG&E to pay PacifiCorp \$20 million a year to lease a PacifiCorp-owned transmission line beginning in 2008. The settlement was recently accepted by the Commission. *See PacifiCorp.*, 121 FERC ¶ 61,278 (2007).

Technology Upgrade, it is more economic to use a third-party to perform these functions rather than incur the costs of developing its own new system to schedule these ETCs under CAISO's Market Redesign and Technology Upgrade. In this filing, PG&E proposes to revise the ETCs to pass through these third-party costs.

5. Finally, PG&E proposes to remove the Pre-Specified Mitigation charge provision in TANC's ETC, stating that recent upgrades and other changes have reduced curtailments on Path 15, thereby reducing the need for these charges.

6. PG&E requests the Commission to suspend the rate and rate methodology changes in this filing for the maximum five month period, and make them effective July 1, 2008, subject to refund.<sup>8</sup> PG&E requests the Commission to suspend for a nominal period the proposed changes to allow the passing through of third-party Scheduling Coordinator and Path 15 ETC Facilitator costs and make them effective on February 1, 2008.<sup>9</sup>

7. PG&E requests that the Commission direct that any issues related to PG&E's cost-of-service rate methodology be litigated or settled as part of PG&E's TO10 rate proceeding in Docket No. ER07-1213-000. PG&E asserts that any changes resulting from that litigation or settlement should be reflected in the rates sought in this docket, without further proceedings in this docket regarding cost-of-service. PG&E also states that issues concerning the proposed rate methodology change or its application, and any other issues raised by intervenors, not including cost-of-service, be resolved in this docket.

8. Finally, PG&E requests waiver of the obligation to provide the information in Statement BC, Reliability Data, which pertains to a utility's reliability standards and generating reserves, because it alleges that those matters are now handled by the CAISO rather than PG&E.<sup>10</sup>

### **Notice of Filing and Responsive Pleadings**

9. Notice of PG&E's filing was published in the *Federal Register*, 72 Fed. Reg. 70,321 (2007), with interventions and protests due on or before December 21, 2007.

---

<sup>8</sup> PG&E explains that, in a settlement of its TO8 rate case in 2006, PG&E agreed to request a five-month suspension for any proposed rate methodology changes to the ETCs made prior to December 31, 2007.

<sup>9</sup> See *supra* note 4.

<sup>10</sup> PG&E made a similar request in its TO10 rate filing in Docket No. ER07-1213-000.

10. The California Public Utilities Commission filed a notice of intervention.
11. Timely motions to intervene raising no substantive issues were filed by: Southern California Edison Company, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California and the California Electricity Oversight Board.
12. The following parties filed timely motions to intervene and protest: SWP, TANC, SMUD, BART, the Northern California Power Agency (NCPA), the Modesto Irrigation District (Modesto), the City of Redding, California and the M-S-R Public Power Agency (Redding/M-S-R), the City of Santa Clara, California, doing business as Silicon Valley Power (SVP), and the State Water Contractors and the Metropolitan Water District of Southern California (SWC/Metropolitan).
13. In addition, timely motions to reject and/or consolidate were filed by SWP, TANC, SMUD, NCPA, Modesto, Redding/M-S-R, SVP and SWC/Metropolitan.
14. On January 2, 2008 and January 7, 2008, respectively, PG&E filed answers to SWP's motion to reject or consolidate and to other protests. On January 16, 2008, TANC filed an answer to PG&E's answers. On January 17, 2008, SMUD filed an answer to PG&E's answers.
15. Intervenors argue that PG&E's proposal to change the rate design of the ETCs from a volumetric methodology to a contract demand methodology is unjust, unreasonable and unduly discriminatory, and will result in excessive rates. Further, intervenors argue that PG&E's filing contains incomplete and inconsistent descriptions of its proposal, and fails to provide customers with reasonable notice of the changes PG&E proposes. Therefore, they assert that PG&E's filing should be rejected. In the alternative, intervenors request that the Commission consolidate PG&E's filing in this docket with PG&E's TO10 rate case in Docket No. ER07-1213-000. They contend that consolidation is appropriate because the two dockets employ the same data and are interrelated in several respects.
16. Intervenors note that PG&E's filing singles out certain wholesale customers for which it proposes to abandon the volumetric rate methodology in favor of contract demand rate methodology, while other PG&E Transmission Owner Tariff customers and wholesale customers will continue to pay a volumetric rate. They also argue that the proposed rate design change may cause PG&E to over-recover its costs of leasing a PacifiCorp transmission line pursuant to the settlement in Docket No. ER07-882-000.<sup>11</sup>
17. Intervenors request the Commission to suspend PG&E's filing in its entirety for the full five months, set the filing for full evidentiary hearing, and consolidate it with

---

<sup>11</sup> See *supra* note 7.

PG&E's TO10 rate filing in Docket No. ER07-1213-000. They also request that the hearing be set on an extended schedule reflecting what they consider to be the exceptional complex nature of the case.

## **Discussion**

### **Procedural Matters**

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept PG&E's, TANC's and SMUD's answers and will, therefore, reject them.

### **Hearing and Settlement Judge Procedures**

20. PG&E's rate filing raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

21. Our preliminary review of PG&E's rate filing indicates that the proposed rate changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. In addition, we find that PG&E's proposed rate changes in this proceeding may yield substantially excessive revenues.<sup>12</sup> Therefore, we will accept PG&E's proposed rate schedules for filing, suspend them for five months, make them effective July 1, 2008, subject to refund, and set them for hearing and settlement judge procedures.

22. We also find that there are common issues of law and fact in this proceeding and in PG&E's TO10 Tariff proceeding. Therefore, we will consolidate Docket No. ER08-267-000 with the ongoing proceeding in Docket No. ER07-1213-000 for purposes of settlement, hearing, and decision.

---

<sup>12</sup> *West Texas Utilities Co.*, 18 FERC ¶ 61,189, at 61,374 (1982) (*West Texas*) (imposition of the maximum five month suspension when preliminary examination indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive.

The Commission orders:

(A) PG&E's proposed revised transmission agreements are hereby accepted for filing and suspended for a five-month period, to become effective July 1, 2008, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning PG&E's proposed rates and rate schedules. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in the body of this order.

(C) This proceeding is hereby consolidated with the ongoing proceeding in Docket No. ER07-1213-000 for purposes of settlement, hearing, and decision.

(D) The settlement judge, or presiding judge designated to preside in Docket No. ER07-1213-000, as appropriate should determine the procedures best suited to accommodate the consolidation of this docket and Docket No. ER07-1213-000.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.