

170 FERC ¶ 61,017
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Pacific Gas and Electric Company

Docket No. ER19-2582-000

ORDER ON ABANDONED PLANT COST RECOVERY FILING

(Issued January 17, 2020)

1. On August 12, 2019, Pacific Gas and Electric Company (PG&E) filed a request pursuant to section 205 of the Federal Power Act (FPA)¹ for Commission authorization to recover 100 percent of its abandoned plant costs associated with its Central Valley Power Connect Project (Project) through PG&E's Transmission Owner Tariff (TO Tariff) formula rate. In this order, we grant in part and deny in part PG&E's request.

I. Background and PG&E's Filing

2. In support of its request for abandoned plant cost recovery, PG&E states that in 2013 the Project was approved through the California Independent System Operator Corporation's (CAISO) transmission planning process in order to mitigate reliability concerns in the Greater Fresno area, and awarded to PG&E and MidAmerican Central California Transco, LLC (MidAmerican Transco). PG&E and MidAmerican Transco subsequently entered into a Development, Construction, and Ownership Agreement (Development Agreement), which set forth the Project development activities, including management of the Project, permitting, engineering, and construction. On May 12, 2014, pursuant to Order No. 679,² PG&E filed a petition for declaratory order, seeking Commission approval for certain transmission rate incentives, including the abandoned plant incentive. On September 18, 2014, the Commission issued an order granting PG&E's request to recover prudently incurred costs in the event that the Project was

¹ 16 U.S.C. § 824d (2018).

² *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

abandoned for reasons beyond PG&E's control, subject to PG&E filing under section 205 of the FPA for recovery of such costs.³

3. PG&E explains that, in the 2016-2017 transmission planning process, CAISO reevaluated the need for the Project and determined that, due to a lower load forecast and increased behind the meter photovoltaic generation, the reliability needs for the Project would be delayed for approximately ten years. CAISO also determined that the economic benefits for integration of renewables did not justify the Project's cost and, because of uncertainties regarding renewable integration, placed the Project on hold, to be studied again in the CAISO 2017-2018 transmission planning cycle.⁴ Thereafter, CAISO completed a comprehensive reassessment of the reliability need for the Project in its 2018-2019 Transmission Plan, which demonstrated that the economic benefits of the avoided curtailment did not justify the costs of the Project, which was estimated between \$200 and \$250 million.⁵ CAISO formally canceled the Project in March 2019.

4. PG&E asserts that all of the factors considered by CAISO – resulting in the cancellation of the Project – were outside of PG&E's control and were not foreseeable.⁶ PG&E proposes in this filing to recover the abandoned plant costs associated with the Project, and to amortize these costs over a five-year period, as part of its 2020 TO Tariff formula rate update.⁷ Specifically, PG&E seeks to recover \$9,225,300 of Project costs, which it states were prudently incurred from October 2011 through March 2017, including: (1) labor-related costs; (2) contract costs; (3) capitalized Administrative and General costs; (4) overhead costs; and (5) allowance for funds used during construction (AFUDC).⁸

³ *Pac. Gas & Elec. Co.*, 148 FERC ¶ 61,195 (2014) (September 2014 Order). In addition to seeking the abandoned plant incentive, PG&E also requested, and the Commission granted, a fifty basis point regional transmission organization (RTO) participation adder for the Project.

⁴ PG&E Transmittal at 3.

⁵ *Id.* at 1-3; Ex. PGE-0001; Ex. PGE-0002.

⁶ PG&E Transmittal at 3-4.

⁷ *Id.* at 5-6.

⁸ PG&E notes that total Project costs were shared equally between PG&E and MidAmerican Transco on a monthly basis under a cost-sharing mechanism in the Development Agreement. *Id.* at 4-5. PG&E's share of these costs are reflected in Ex. PGE-003 at 6-7.

5. In support of its request, PG&E submits testimony to demonstrate that its costs were prudently incurred. Specifically, PG&E details its monitoring and management of Project activities and associated costs. Further, PG&E explains that, when CAISO placed the Project on hold in March 2017, PG&E ceased collection of financing costs in the Project accounts, excluding minor cost adjustments.⁹ Finally, PG&E presents exhibits to clarify the Project costs by category, Project costs over time, AFUDC accrual and accounting thereof, the abandoned plant cost recovery mechanism, and documentation to support the services provided by third party contractors for work performed.¹⁰

6. PG&E argues that the Commission should permit it to recover 100 percent of all of its prudently incurred costs, including those costs it incurred prior to the issuance of the September 2014 Order because the Project was abandoned for reasons beyond PG&E's control and no party opposed PG&E's petition for declaratory order to recover all prudently incurred costs.¹¹

II. Notices, Interventions, and Responsive Pleadings

7. Notice of PG&E's filing was published in the *Federal Register*, 84 Fed. Reg. 32,452 (2019), with interventions or protests due on or before September 3, 2019. A notice of intervention was filed by the California Public Utilities Commission (CPUC). Timely motions to intervene were filed by Modesto Irrigation District; the City of Santa Clara, California; MidAmerican Transco; California Department of Water Resources State Water Project (SWP); the Northern California Power Agency (NCPA); Six Cities;¹² and the Transmission Agency of Northern California (TANC).

8. On September 3, 2019, a joint protest and request for hearing was filed by the CPUC, TANC, SWP, and NCPA (collectively, Joint Protestors). Six Cities separately filed a protest. On September 10, 2019, PG&E filed an answer to the comments and protests. On September 17, 2019, Joint Protestors filed an answer to PG&E's answer.

⁹ The minor cost adjustments consist of a credit for unused permitting fees, a credit for an estimate of accrued costs not used, and a final cost sharing payment to MidAmerican Transco (which is a true-up payment between PG&E and MidAmerican Transco – the project participants – pursuant to the Development Agreement). See Ex. PGE-0001 at 4 and Ex. PGE-0003 at 5-8.

¹⁰ Ex. PGE-0004, Ex. PGE-0005, Ex. PGE-0006, Ex. PGE-0007, Ex. PGE-0008. See also Deficiency Response at 2-3 and Attachments A, B, C, and D.

¹¹ PG&E Transmittal at 1-2.

¹² Six Cities consist of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

On September 30, 2019 Six Cities filed an answer to PG&E's answer. On October 2, 2019, PG&E filed a reply to the September 30 Six Cities answer.

A. Protests

9. Joint Protesters generally argue that the Commission should: (1) reject PG&E's request to recover 100 percent of abandoned plant costs incurred prior to the issuance of the September 2014 Order; (2) set PG&E's requested Project costs for hearing; (3) clarify that the 50 point RTO participation adder does not apply to PG&E's abandoned plant costs; and (4) reject PG&E's proposed five-year amortization period.

10. Specifically, Joint Protesters state that the Commission has rejected requests for 100 percent recovery of pre-order costs under the abandoned plant incentive, consistent with Order No. 679.¹³ Further, Joint Protesters comment that the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *San Diego Gas & Electric Co. v. FERC* also recognized the Commission's precedent to recover abandoned plant costs "only insofar as those costs were incurred after the effective date of the order approving the utility's application" for the incentive.¹⁴ Joint Protesters explain that Commission precedent creates a "dividing line between the period in which an applicant is entitled to the full abandoned plant incentive authorized under FPA section 219 and 50 percent recovery under Opinion No. 295's cost sharing policy."¹⁵ As a result, Joint Protestors assert that PG&E is only entitled to recover fifty percent of the Project costs that it incurred up to September 18, 2014, the date of the Commission order granting the abandoned plant incentive.

11. Joint Protesters state the Commission's "dividing line" policy between pre-order and post-order abandoned plant costs ensures that ratepayers will only be charged for failed projects that benefited from superior financing terms that were, in turn, passed on to ratepayers as lower project costs.¹⁶ Further, Joint Protestors note that PG&E was

¹³ Joint Protestors Protest at 4-5 (citing *Pac. Gas & Elec. Co.*, 163 FERC ¶ 61,187 at P 14 (2018); *Citizens Energy Corp.*, 162 FERC ¶ 61,161 at P 26 (2018); *S. Cal. Edison Co.*, 161 FERC ¶ 61,107 at P 44 (2017); *Republic Transmission, LLC*, 161 FERC ¶ 61,036 at P 29 (2017); *DCR Transmission, LLC*, 153 FERC ¶ 61,295 at P 42 (2015); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,156 (2013) (*PJM Interconnection II*)).

¹⁴ *San Diego Gas & Elec. Co. v. FERC*, 913 F.3d 127, 133-34 (D.C. Cir. 2019) (*San Diego v. FERC*).

¹⁵ Joint Protestors Protest at 5 (quoting *PJM Interconnection, L.L.C.*, 164 FERC ¶ 61,015, at 7 (2018)).

¹⁶ Joint Protestors Protest at 6-7.

selected as a developer for the Project on November 6, 2013, but that PG&E did not file its petition for declaratory order with the Commission until six months later. Therefore, Joint Protestors argue, PG&E could have reduced its exposure to additional abandoned plant Project costs by filing its petition for declaratory order once PG&E received approval to develop the Project from CAISO.

12. Joint Protestors request that the Commission establish evidentiary hearings to determine whether PG&E prudently incurred costs associated with the Project.¹⁷ In support of this request, Joint Protestors question the escalation in the estimated Project costs from \$157 million reflected in the September 2014 Order to between \$200 and \$250 million in CAISO's 2018-2019 Transmission Plan,¹⁸ and state that PG&E provided no explanation for this escalation in costs. Joint Protestors argue that stakeholders should be able to understand the reason for estimated Project cost escalation and whether the costs incurred were, in fact, prudently incurred.

13. Further, Joint Protestors assert that the fifty basis point RTO participation adder should not apply to the abandoned plant costs for the Project, as the participation adder was conditioned on PG&E remaining a member of CAISO, completing the Project and transferring functional control of the Project to CAISO.¹⁹ Joint Protestors assert that the RTO participation adder can no longer be applied because incentive adders do not apply once the project is abandoned.²⁰ Joint Protestors argue that the Commission should therefore reject PG&E's request to apply a 12.5 percent return on equity to its Project abandoned plant costs, inclusive of the fifty basis point RTO participation adder.²¹

14. Finally, Joint Protestors request that the Commission reject PG&E's proposed five-year amortization period and replace it with a one-year amortization period so as to avoid an excessive and unjustified recovery of return on the unamortized portion of the Project's abandoned plant costs. Joint Protestors note that a one-year amortization period would save ratepayers \$1.7 million in carrying charges as compared to a five-year recovery period. Additionally, Joint Protestors state that a longer amortization period is not needed to protect consumers from significant rate shock since a one-year recovery

¹⁷ *Id.* at 9-11.

¹⁸ Ex. PGE-0002, 2018-2019 ISO Transmission Plan at 18-19.

¹⁹ September 2014 Order, 148 FERC ¶ 61,195 at P 16.

²⁰ *PJM Interconnection II*, 142 FERC ¶ 61,156 at P 44.

²¹ Joint Protestors Protest at 11-12.

period would represent a 0.49 percent increase over PG&E's proposed base transmission revenue requirement, versus the requested five-year recovery period of 0.14 percent increase.²²

15. Six Cities also object to PG&E's request for recovery of 100 percent of Project costs, and concurs with Joint Protestors who argue that PG&E is entitled to recover no more than fifty-percent of prudently-incurred abandoned plant costs prior to the issuance of the September 2014 Order. Six Cities also argue that PG&E may not recover incentive adders to its rate of return on equity associated with abandoned plant costs, and therefore the Commission should confirm that incentive adders will not apply to the Project abandoned costs. Six Cities also support a one-year amortization period.²³

B. PG&E's Answer

16. PG&E argues that the Joint Protestors and Six Cities have no legal basis to request that the Commission permit PG&E to recover fifty percent of the abandoned costs incurred prior to the issuance of the September 2014 Order. PG&E states that it expressly requested 100 percent recovery of abandoned plant costs in its petition and no objections to this request were raised by Joint Protestors or Six Cities, and no party sought rehearing of the order granting its request.²⁴ For this reason, PG&E argues that Joint Protestors and Six Cities are legally barred from challenging the September 2014 Order in this proceeding.

17. PG&E also asserts that the Commission should not distinguish between costs incurred before and after the issuance of the September 2014 Order because to do so would apply a dividing line, which PG&E argues would conflict with *San Diego v. FERC*, where the court affirmed the Commission's decision granting the abandoned plant incentive "when justified" on a "case-by-case basis."²⁵ PG&E contends that Joint Protestors and Six Cities improperly rely on the SDG&E Rehearing Order as an explanation of the Commission's abandoned plant cost recovery precedent. PG&E contends that the determination in the SDG&E Rehearing Order is not persuasive

²² *Id.* at 13-14.

²³ Six Cities Protest at 2-3.

²⁴ PG&E Answer at 2, 4-5.

²⁵ *Id.* at 2 (quoting *San Diego v. FERC*, 913 F.3d at 141 (citing Order No. 679, 116 FERC ¶ 61,057 at P 20; Order No. 679-B, 119 FERC ¶ 61,062 at P 18) and citing *San Diego Gas & Elec. Co.*, 154 FERC ¶ 61,158, *reh'g denied*, 157 FERC ¶ 61,056 (2016) (SDG&E Rehearing Order)).

precedent because it references the Commission's discussion in *PJM Interconnection II*,²⁶ where the issues, including cost recovery, were resolved through a "black box" settlement, and not upon the merits of the rehearing arguments.²⁷ PG&E asserts that the Commission should now review the arguments presented by the parties who sought rehearing in the *PJM Interconnection II* proceeding.

18. Further, PG&E asserts that Joint Protestors fail to understand the purpose of the abandoned plant incentive as a means to encourage transmission investments, and that an applicant is not required to show that it would not build facilities if not for incentives.²⁸ PG&E also argues that the Commission should not grant the request of Joint Protestors to set this matter for evidentiary hearing because Joint Parties are relying on speculative assertions or policy disagreements that do not rise to the level of disputed material issues of fact.²⁹

19. Finally, PG&E agrees that, if the Commission deems it appropriate, the Commission should approve a one-year amortization period for 100 percent of its abandoned plant costs.

C. Joint Protestors' and Six Cities' Responses

20. Joint Protestors dispute PG&E's argument that, because they did not object to PG&E's request for incentive rate treatment in the initial petition for declaratory order, they have waived their right to protest this matter in any subsequent proceeding. Joint Parties further assert that PG&E's answer falsely claims that PG&E's petition requested that the abandoned plant incentive be applied to pre and post order costs, referring to testimony included in its initial petition requesting that the Commission authorize the use of the incentive, "effective on the date of its order." Joint Protestors also refer to *San Diego v. FERC* to counter PG&E's arguments regarding the cost recovery policy. Finally, Joint Protestors continue to request that the Commission exercise its discretion in allowing discovery and scheduling evidentiary hearings to determine whether the Project costs PG&E is seeking to recover were prudently incurred.

²⁶ PG&E Answer at 5 (citing *PJM Interconnection II*, 142 FERC ¶ 61,156).

²⁷ *Id.* at 5-6.

²⁸ *Id.* at 7-8 (citing Order No. 679, 116 FERC ¶ 61,057 at P 53).

²⁹ *Id.* at 8 (citing *Kan. Power & Light Co. v. FERC*, 851 F.2d 1479, 1483-84 (D.C. Cir. 1988)).

21. Six Cities asserts that PG&E's answer inaccurately represents the Commission's policy regarding abandoned plant costs. Six Cities asserts that, contrary to the PG&E's argument that the Commission never reached the merits of the rehearing arguments in the *PJM Interconnection II* proceeding because the rehearing was resolved through a settlement, there is no implied vacatur of *PJM Interconnection II* and, accordingly, the Commission's orders maintain a valid articulation of Commission policy absent exceptional circumstances.³⁰ Six Cities also asserts that the Commission has applied the "dividing line" policy as recently as the order accepting MidAmerican Transco's request for abandoned plant cost recovery on the same Central Valley Power Connect Project.³¹

D. PG&E's Reply to Six Cities' Response

22. PG&E asserts that, in *PJM Interconnection II*, as a section 205 proceeding, the Commission was concerned about effective dates and retroactive ratemaking. PG&E argues that, in contrast, because it was granted the abandoned plant incentive pursuant to a declaratory order, there are no comparable concerns about effective dates or retroactive ratemaking.³² PG&E also maintains that the Commission has no "dividing line" policy. PG&E explains that, had Six Cities focused on the "Analysis" section of the appellate court decision instead of the "Regulatory Context" section, that Six Cities would see that the Commission told the appellate court that it has no dividing line policy, and that the Commission grants the abandoned plant incentive on a case-by-case basis.³³

III. Discussion

A. Procedural Matters

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notice of intervention and the unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

³⁰ Six Cities Answer at 2-3 (citing *DesertLink, LLC*, 165 FERC ¶ 61,076, at P 7 & nn.13-14 (2018) (citing *Exelon Corp.*, 130 FERC ¶ 61,095 (2010); *E. Ky. Power Coop., Inc.*, 121 FERC ¶ 61,255, at P 10 (2007); *Constellation Power Source, Inc. v. Cal. Power Exch. Corp.*, 100 FERC ¶ 61,380, at P 20 & n.14 (2002); *Vt. Yankee Nuclear Power Corp.*, 96 FERC ¶ 61,286, at 62,086 (2001)).

³¹ *MidAmerican Transco*, 168 FERC ¶ 61,197 (2019).

³² PG&E Reply at 1-2.

³³ *San Diego v. FERC*, 913 F.2d at 134.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answers filed by PG&E, Joint Protestors, and Six Cities and the reply filed by PG&E because they have provided information that has assisted us in our decision-making process.

25. On October 4, 2019, Commission staff issued a letter indicating that the filing submitted by PG&E was deficient and requested further information. On November 18, 2019, PG&E submitted a response that included additional information (Deficiency Response).³⁴ Notice of PG&E's Deficiency Response was published in the *Federal Register*, 84 Fed. Reg. 65,379 (2019), with interventions and protests due on or before December 10, 2019. None was filed.

B. Substantive Matters

26. As a preliminary matter, we disagree with PG&E's assertion that only entities that have protested a petition for declaratory order seeking an abandoned plant incentive may challenge the subsequent FPA section 205 proceeding seeking recovery of prudently incurred abandoned plant costs. The intervenors herein are not challenging the initial order granting PG&E the abandoned plant incentive; rather, they are parties to this separate section 205 proceeding regarding the specific Project costs PG&E seeks to recover and the prudence of such costs.

27. We grant in part, and deny in part, PG&E's request for Commission authorization to recover 100 percent of prudently incurred costs as a result of the Project's abandonment. Specifically, we grant PG&E's request to recover 100 percent of the costs associated with the Project from the date of issuance of the September 2014 Order, i.e., September 18, 2014, through March 17, 2017, the date the Project was placed on hold.³⁵ We find that PG&E has sufficiently explained the circumstances that led to the cancellation of the Project by CAISO in March 2017. Consistent with the September 2014 Order, we agree with PG&E that the Project was abandoned for reasons outside of PG&E's reasonable control.³⁶

³⁴ On October 25, 2019, PG&E filed a motion for an extension of time, requesting an extension from November 4, 2019 until November 18, 2019 to respond to the Deficiency Letter. On October 32, 2019, the requested extension was granted.

³⁵ The CAISO Transmission Plan was published on March 17, 2017. *See* Ex. PGE-0002, 2016-2017 Transmission Plan at 8-9.

³⁶ *See* September 2014 Order, 148 FERC ¶ 61,195 at P 15.

28. Based on the record, we find that PG&E's costs in developing the Project were prudently incurred, are just and reasonable, and have not been shown to be unjust and unreasonable. In support of its request for abandoned plant cost recovery, PG&E provided detailed cost breakdowns, on a monthly basis, for each relevant year; itemization of Project costs for each cost category; and invoices detailing costs by third parties supporting the Project development. The supporting documentation detailed the specific Project development costs incurred by PG&E for which it is seeking abandoned plant recovery. In addition, PG&E submitted exhibits reflecting itemized AFUDC amounts and debt/equity components, and the calculation of overhead costs. Altogether, we find that the aforementioned supporting documentation adequately demonstrates that the costs PG&E incurred in developing the Project were prudent and that there was no double recovery of Project development costs. Accordingly, we grant PG&E's request to recover prudently incurred abandoned plant costs.

29. However, we deny PG&E's request for authorization to recover 100 percent of costs incurred for the time period preceding the issuance of the September 2014 Order. PG&E is entitled to recover fifty percent of the costs of the Project that were prudently incurred prior to the issuance of the September 2014 Order, consistent with Commission precedent.³⁷

30. As the Commission explained in the SDG&E Rehearing Order, "the function of an incentive is to encourage action that has not yet occurred,"³⁸ and therefore an incentive by definition does not apply to past behavior. Affirming the Commission's orders in *San Diego v. FERC*, the D.C. Circuit recognized the prospective nature of the Commission's abandoned plant incentive, and commented that "[a]n applicant must show a nexus between each incentive it seeks and the incentive's role in financing reliable and economically efficient transmission infrastructure."³⁹ The court then noted that the Commission "must ensure that 'incentives are not provided in circumstances where they do not materially affect investment decisions.'"⁴⁰ Thus, the Commission generally does

³⁷ See, e.g., SDG&E Rehearing Order, 157 FERC ¶ 61,056; *New England Power Co.*, Opinion No. 295, 42 FERC ¶ 61,016, at 61,075-078, *order on reh'g*, Opinion No. 295-A, 43 FERC ¶ 61,285 (1988). We note that PG&E provided Project costs by month. Therefore, the Project costs incurred in September 2014 do not differentiate between Project costs incurred before and after the issuance of the Commission order on September 17, 2014. The exact amount of the Project cost recovery will therefore need to be adjusted by PG&E to reflect the breakdown for the month of September 2014.

³⁸ SDG&E Rehearing Order, 157 FERC ¶ 61,056 at P 15.

³⁹ *San Diego v. FERC*, 913 F.3d at 137.

⁴⁰ *Id.* (citing Order No. 679-A, 117 FERC ¶ 61,345 at P 25).

not permit 100 percent recovery of prudently incurred costs associated with an abandoned transmission project prior to the date the Commission grants the abandoned plant incentive to an applicant.⁴¹ The Commission's policy recognizes that, prior to a utility being granted the abandoned plant incentive, the risks of an abandoned transmission project should be shared equally between the utility's ratepayers and its shareholders, pursuant to Opinion No. 295. We further note that the Commission recently rejected a similar request by MidAmerican Transco to recover 100 percent of the prudently incurred costs associated with the Project prior to the Commission's granting of the abandoned plant incentive to MidAmerican Transco in June 2014.⁴² In that order, the Commission explained that the reasons MidAmerican Transco proffered in support of their request did not demonstrate that the circumstances were atypical.⁴³ We find that the same considerations apply here as well.

31. We do not dispute PG&E's statement that the Commission analyzes incentives on a case-by-case basis. In this case, for example, we examined specific evidence provided by PG&E in support of its request and determined that the costs it expended in connection with the Project were prudently incurred, as discussed above. However, based on the record in this proceeding, we are not persuaded to deviate from the Commission's general fifty/fifty cost-sharing policy for costs incurred prior to the date the incentive was granted.⁴⁴

32. We clarify that the unamortized abandoned plant costs may not include the fifty-basis point RTO participation adder for PG&E's participation in CAISO that was granted in the September 2014 Order. The adder applies to projects that have been turned over to the operational control of an RTO (here, CAISO). The Commission has previously explained that "the facility at issue in an abandoned plant cost recovery situation will not

⁴¹ We are not persuaded by PG&E's argument that we should distinguish its request because its abandonment incentive was granted after a petition for declaratory order, rather than through a section 205 proceeding, as was the case in *PJM Interconnection II*. The pertinent consideration here is the timing of the approval, not the form of the request.

⁴² *MidAmerican Transco*, 168 FERC ¶ 61,197.

⁴³ *Id.* P 12.

⁴⁴ We also decline PG&E's invitation to revisit *PJM Interconnection II*. As an initial matter, *PJM Interconnection II* is a final order. That the rehearing requests in that proceeding were ultimately withdrawn in accordance with a settlement does not diminish the precedential value of that order. Moreover, since that time, the Commission has issued a number of orders (cited above) articulating and further explaining its policy, and Commission orders applying that policy have been affirmed by the D.C. Circuit.

be transferred to the RTO's control, and therefore the benefits from that project's inclusion in an RTO will not materialize."⁴⁵ Under PG&E's TO Tariff formula rate, the average unamortized balance of abandoned plant costs will be reflected as a component of rate base and will earn a return until the abandoned plant costs have been fully amortized. Because the Project has been canceled, the return on the unamortized plant may not include the fifty-basis point adder for RTO participation.⁴⁶

33. Finally, we authorize a one-year amortization period for the abandoned plant costs that PG&E agreed to adopt in its answers to protesters,⁴⁷ which will reduce overall Project costs.

The Commission orders:

PG&E's request to recover 100 percent of the costs associated with the Project is hereby granted in part and denied in part, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴⁵ See *Pac. Gas & Elec. Co.*, 160 FERC ¶ 61,018 at P 75 (quoting *PJM Interconnection II*, 142 FERC ¶ 61,156 at P 40).

⁴⁶ See *PJM Interconnection II*, 142 FERC ¶ 61,156 at PP 41-42.

⁴⁷ PG&E Answer at 9.