171 FERC ¶ 61,021
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

City and County of San Francisco Docket No. EL19-38-000

v.

Pacific Gas and Electric Company

ORDER ON COMPLAINT

(Issued April 16, 2020)

1. On January 28, 2019, the City and County of San Francisco (San Francisco) filed a complaint (Complaint) pursuant to sections 206, 306, and 309 of the Federal Power Act (FPA)[1] against Pacific Gas and Electric Company (PG&E) alleging that PG&E unreasonably denied service to the City in violation of its Wholesale Distribution Tariff (WDT), and that it is implementing the WDT in an unjust, unreasonable, and unduly discriminatory manner.[2] For the reasons discussed below, we deny the Complaint.

I. Background and Complaint

A. Background

2. The WDT, which became effective when the California Independent System Operator Corporation assumed operational control of PG&E's transmission facilities on April 1, 1998, contains the rates, terms, and conditions for wholesale distribution service over PG&E's distribution facilities. San Francisco became a WDT customer on July 1, 2015, following the expiration of a bilateral interconnection agreement between PG&E and San Francisco. As relevant here, the WDT provides two different distribution service rates: one rate for interconnection points connected at higher-level "primary voltage,"

[1] 16 U.S.C. §§ 824e, 825e, 825h (2018).

[2] Complaint at 1.

either directly or via dedicated facilities; and a second rate for interconnection points connected at a lower "secondary voltage."[3]

B. Complaint

3. San Francisco alleges that PG&E has unreasonably denied service to San Francisco in violation of the WDT, and that PG&E is implementing the WDT in an unjust, unreasonable, and unduly discriminatory manner.[4] As discussed below, San Francisco contends that PG&E has refused to provide it with secondary service for San Francisco's small customers (as well as another form of service, which is termed "primary plus" service).[5] San Francisco contends that since July 1, 2015, when it started taking wholesale distribution service under the WDT, PG&E has delayed service and created barriers for San Francisco to interconnect new customers and service existing customers when San Francisco has requested modifications to their interconnections. San Francisco alleges that PG&E has rejected a substantial portion of San Francisco's applications for secondary service since that time, including nearly every secondary service application since November 2017 for loads above 75 kW.[6]

4. San Francisco argues that primary service requires it to install facilities that are inappropriate and disproportionately large and expensive, given the size and nature of the loads at issue.[7] While San Francisco states that it has taken primary service for larger loads, it claims that PG&E has insisted that it also take primary service for loads over 75 kW, as well as for some smaller loads.[8] Meanwhile, according to San Francisco, PG&E requires its own retail customers to install similar facilities only when their loads are around 3,000 kW.[9] San Francisco argues that there is no technical or reliability reason for requiring primary service for the small city loads, as PG&E conceded in

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[3] *Id.* at 8.

[4] *Id.* at 1.

[5] *Id.* at 3.

[6] *Id.* at 10.

[7] *Id.*

[8] *Id.*

[9] *Id.* The 3,000 kW delineation is found in PG&E's Electric Rule No. 2, which is on file with the California Public Utilities Commission. *See id.*, Maslowski Decl. ¶¶ 7-8.

testimony at a local hearing.[10] San Francisco also asserts that PG&E has consistently required primary service for all loads over 75 kW since 2017.[11]

5. San Francisco argues that it has requested secondary service from PG&E and has been told repeatedly that it must have primary service with the accompanying bulky equipment, including primary switchgear, for which there is often no space, even though the WDT does not require primary service.[12] San Francisco claims that there is a routine pattern in the denials of service, consisting of San Francisco requesting secondary service, PG&E refusing that request, San Francisco offering secondary service modifications, and PG&E continuing to ignore or refuse San Francisco's offer.[13] After some delays, San Francisco states that it may receive secondary service in some cases, but is required to take primary service in others.[14] And in other instances, San Francisco contends that projects have been indefinitely delayed.[15] The Complaint includes a declaration from Ms. Barbara Hale, the Assistant General Manager of the San Francisco Public Utilities Commission that describes City projects involving the Balboa Pool and the Randall Museum San Francisco asserts were delayed as a result of PG&E's alleged improper implementation of the WDT.[16] Ms. Hale's declaration also details delays associated with the Central Waterfront Navigation Center, which resulted in San Francisco allowing PG&E to serve the facility as a retail customer.[17]

6. San Francisco also argues that it has not received "primary plus" service, under which it would pay the WDT's lower primary service rate, plus cost of ownership charges for any directly assigned facilities owned by PG&E used only to serve

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[10] *Id*. at 11 n.18 (citing PG&E testimony at a June 13, 2018 San Francisco Board of Supervisors Public Safety and Neighborhood Services Committee Hearing, where PG&E stated that requiring primary service for loads of 75 kW "doesn't really come down to . . . a technical question…it's a policy question.").

[11] *Id*. at 13.

[12] *Id*. at 13-16.

[13] *Id*. at 13-14.

[14] *Id*. at 15.

[15] *Id*. at 15-16.

[16] *Id*., Hale Decl. ¶¶ 17-24.

[17] *Id.*, Hale Decl. ¶¶ 25-30.

San Francisco. San Francisco asserts that PG&E has refused to construct or own the directly-assigned facilities needed to provide primary plus service.[18]

7. San Francisco contends that the requirement that it take primary service rather than secondary or primary plus service means that it has incurred unnecessary costs, been forced to use space for unnecessary equipment that could be used for critical facilities and functions, and experienced extended delays in receiving WDT service. San Francisco states that by forcing primary service on it, instead of the secondary service, PG&E has forced San Francisco and its customers to spend time and resources that they should not have had to move projects forward.[19]

8. Given the foregoing, San Francisco asserts that PG&E's actions violate the FPA, the WDT, and the WDT Service Agreement between PG&E and San Francisco. San Francisco alleges that PG&E is denying service based not on the WDT, but on its characterization of San Francisco's refusal to take on the obligations required of any other utility.[20] San Francisco also contends that PG&E is reserving capacity on its secondary distribution system for its own use, while effectively denying San Francisco access to PG&E's distribution system unless San Francisco builds new primary and secondary facilities to serve San Francisco's load, which San Francisco argues is monopolistic behavior that Order No. 888 was intended to prevent.[21] In addition, San Francisco asserts that the WDT requires PG&E to offer wholesale distribution service to small loads and low-voltage facilities, and that includes secondary service.[22] San Francisco notes that it is not the only WDT customer that obtains secondary service,

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[18] *Id*. at 16.

[19] *Id*. at 17-18.

[20] *Id*. at 22.

[21] *Id*. (citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. at 31,745, 31,693-94, *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002)).

[22] *Id.* at 23.

pointing out that the Western Area Power Administration (Western) took secondary service at 970 points of delivery.[23]

9. Next, San Francisco asserts that PG&E has not justified its refusal to provide secondary service based on any provision in the WDT.[24] Instead, San Francisco argues that, because secondary service is provided for under the WDT, the filed rate doctrine requires that the rates and terms and conditions for secondary service cannot differ from those contained in the WDT itself. San Francisco explains that "[t]he filed rate doctrine's purpose is to ensure that the filed rates are the exclusive source of the terms and conditions by which the [regulated entity] provides . . . the services covered by the tariff."[25] San Francisco also contends that tariff service cannot be denied because of requirements that are not based in the terms or conditions of the tariff.[26]

10. In addition, San Francisco argues that PG&E is obligated to upgrade or expand its secondary distribution system in order to provide secondary service under the WDT.[27] San Francisco asserts that PG&E has immediately rejected San Francisco's secondary service applications—without attempting to determine what upgrades and expansions to its existing secondary distribution system, if any, would be necessary to provide the requested service, let alone whether San Francisco would agree to compensate PG&E for all or part of the costs for such facilities.[28] San Francisco also argues that PG&E's refusal to make "primary plus" service available violates the WDT.[29] According to San Francisco, although the WDT does not explicitly define "primary plus" service, it does contemplate that PG&E will own and operate directly assigned facilities to provide wholesale distribution service.[30] San Francisco also states that the WDT authorizes

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[23] *Id.* at 24.

[24] *Id*. at 25.

[25] *Id*. (citing *Cal. ex rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 853 (9th Cir. 2002)).

[26] *Id.*

[27] *Id.* at 26.

[28] *Id.* at 26-27.

[29] *Id.* at 20.

[30] San Francisco explains that direct assignment facilities are defined in the WDT and the term appears throughout it. *See*, *e.g.*, WDT §§ 2.11, 12.6, 14.2.1, 15.7, 16.3, 16.4, sched. WD-1.

PG&E to charge customers for the costs of installing direct assignment facilities and the costs of owning and operating those facilities.[31] San Francisco notes that section 2 of WDT Schedule WD-1 contemplates the use of direct assignment facilities in the context of primary service.[32] San Francisco goes on to assert that dedicated transformers are among the direct assignment facilities that PG&E will provide under the WDT.[33] San Francisco points out that, in describing the intervening facilities required in various scenarios for primary and secondary service, WDT section 14.2.1 states that customer ownership of the transformer would not be required for primary service where:

> [T]he transformer is a PG&E owned Direct Assignment Facility and the Distribution Customer contributes or contributed to the cost of such facility (typically in the case of a conversion from existing distribution service that is not provided under this WDT to Distribution Service provided under this Tariff).[34]

11. San Francisco goes on to state its understanding that PG&E routinely uses direct assignment facilities to serve other WDT customers, noting that PG&E charges Western a primary plus rate at 95 points of delivery, a number of which appeared large enough to require a dedicated PG&E-owned transformer. Accordingly, San Francisco asserts that PG&E's refusal to provide it with primary plus service is unduly discriminatory.[35]

12. San Francisco next asserts that PG&E's repeated initial denials of secondary service, unreasonable metering and switchgear requirements, and lengthy site-specific negotiations have imposed undue burdens and costs causing San Francisco to lose customers to PG&E.[36] San Francisco argues the Commission has specifically recognized

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[31] Complaint at 27-28.

[32] *Id*. at 28. Section 2 of WDT Schedule WD-1 states: "[W]here (1) the point of interconnection of the Direct Assignment Facilities to PG&E's Distribution system is at primary voltage and (2) the PG&E-owned secondary facilities are all Direct Assignment Facilities, i.e., for the sole use and benefit of the Distribution Customer, the service shall be primary service."

[33] *Id*. at 28.

[34] *Id*.

[35] *Id.* at 31.

[36] *Id*. at 31-32.

that delay tactics are among the mechanisms that transmission-owning utilities use to improperly deny access, and it ordered open access reforms to prevent those abuses.[37]

13. As a remedy, San Francisco asks that the Commission direct PG&E: (1) to comply with the WDT, as well as the WDT Service Agreement, by offering San Francisco secondary and primary plus service; (2) to modify its business practices for implementing the WDT, so that certain terms and conditions of primary, secondary, and primary plus service are just and reasonable and appropriate for the size and character of the San Francisco loads being served; and (3) refund the excess costs incurred by San Francisco to comply with the allegedly improper requirements imposed by PG&E pursuant to FPA section 309. San Francisco also suggests specific solutions for pending and future requests for WDT service, including suggested requirements for service with maximum demand load less than 3,000 kW (or an increase to an existing demand load that is less than 3,000 kW), as well as for service with maximum demand load over 3,000 kW.[38]

II. Notice of Complaint and Responsive Pleadings

A. Notice of Complaint

14. Notice of the Complaint was published in the *Federal Register*, 84 Fed. Reg. 1723 (Feb. 5, 2019), with interventions and protests due on or before February 19, 2019. On February 19, 2019, Turlock Irrigation District filed a motion to intervene.

15. On February 19, 2019, PG&E filed a notice that argued that its pending bankruptcy proceeding automatically stayed this proceeding (Notice of Bankruptcy Filing). On February 27, 2019, San Francisco filed a response to PG&E's Notice of Bankruptcy Filing. The parties continued to exchange correspondence on this issue. Ultimately, San Francisco sought relief from the Bankruptcy Court to pursue its Complaint. On May 15, 2019, the Bankruptcy Court granted San Francisco's motion, permitting San Francisco to continue to prosecute the case before the Commission.

16. PG&E subsequently filed an answer to the Complaint on May 30, 2019. San Francisco filed a response to PG&E's answer on June 14, 2019.

[37] *Id*. at 32.

[38] *Id.* at 33-37.

17. On June 17, 2019, following the Bankruptcy Court's ruling, an additional notice of the Complaint was published in the *Federal Register*, 84 Fed. Reg. 294,199 (June 21, 2019), with interventions and protests due on or before June 27, 2019.

18. San Francisco supplemented its June 14, 2019 response on July 18, 2019. San Francisco again supplemented its response on February 26, 2020. On March 9, 2020, PG&E filed a response to San Francisco's second supplement.

B. PG&E's Answer

19. PG&E argues that San Francisco has not met its burden of proof under FPA section 206. PG&E denies that it has been engaging in a discriminatory, unjust, or unreasonable application of its WDT.[39] PG&E asserts that San Francisco has submitted insufficient evidence to support its complaint and argues that the declarations submitted by San Francisco are themselves unsupported and contain factual inaccuracies that do not demonstrate that PG&E is violating any provisions of its WDT.[40] According to PG&E, no provision in the WDT allows the customer to dictate its service level at either the higher (primary) or lower (secondary) voltage level. Rather, PG&E asserts that it must retain discretion, as the service provider, to determine the appropriate service level based on existing infrastructure.[41]

20. PG&E asserts it has neither refused requests for secondary service nor forced San Francisco to take primary service for nearly all loads above 75 kW, and claims, rather, that most San Francisco interconnections have been interconnected at secondary voltages.[42] PG&E argues that there are technical, safety, and reliability justifications for requiring primary service levels for small loads. Further, according to PG&E, secondary service approximates a retail wheeling arrangement, and that San Francisco, as a wholesale electric utility, should take primary service unless there is a reason it is not possible.[43] PG&E claims that it has granted 72 out of 122 requests for secondary service without dispute since 2015, and notes that San Francisco's witness Mr. Maslowski concedes that 96% of the more than 2,200 metered points of delivery receive secondary service. PG&E cites its own exhibits demonstrating a majority of secondary service for

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[39] PG&E Answer at 2.

[40] *Id.* at 5.

[41] *Id.* at 5-6.

[42] *Id.* at 7.

[43] *Id.* at 8.

new interconnections since 2015.[44] PG&E provides charts indicating that in 2017 and 2018, it provided secondary service to 11 out of 28 interconnections for loads over 75 kW.[45] PG&E states that it also considers other requests for variances from primary service, including low-side metering, on a case-by-case basis.

21. PG&E states that its preference to serve at primary voltage levels is not inherently unjust and unreasonable, and that primary service is typical for utility-to-utility interconnections.[46] PG&E's asserts that secondary voltage interconnections between utilities present engineering challenges because secondary service devices are not designated unique Operating Numbers, such as protective equipment, and thus PG&E's operational engineers are unable to write guides for operating those devices in the field.[47] PG&E explains that protective equipment that allows the isolation of one utility from the other and is identified by an Operating Number at the primary voltage level, does not have such designation at secondary voltage. According to PG&E, this establishes an engineering and operational basis for interconnection at primary voltage.

22. PG&E also disputes San Francisco's reference to PG&E's Electric Rule No. 2, which outlines service levels for its non-jurisdictional retail customers, stating that San Francisco is not taking retail service or paying retail rates. PG&E differentiates retail customers from wholesale distribution customers, explaining that it maintains its distribution system to ensure reliability and capacity for retail customers, whose rates pay for system maintenance and upgrades. In contrast, PG&E explains, wholesale distribution customers must pay the actual costs for any PG&E facilities required to interconnect them and any costs associated with upgrades to serve them at the requested capacity.[48] PG&E explains that it reasonably requires wholesale distribution customers with utility-to-utility interconnections to take responsibility for ownership, maintenance, and operations of all step-down facilities on its own side of the interconnection.[49]

23. PG&E takes issue with San Francisco's assertion that PG&E's service options have required San Francisco to redesign projects due to space constraints. PG&E alleges that San Francisco has taken an irresponsible approach to planning for and facilitating

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[44] *Id.* at 9-10.

[45] *Id.* at 11.

[46] *Id.* at 15.

[47] *Id.* at 16.

[48] *Id.* at 16.

[49] *Id.* at 17.

customer interconnections and has either failed to inform or intentionally misinformed customers about space requirements, noting that San Francisco should have designed projects for primary service at the outset.[50] PG&E thus concludes that project delays are a result of San Francisco's own actions. PG&E also states that it has made accommodations for San Francisco loads that are expanding their service capacity but are space constrained. PG&E argues that San Francisco failed to design interconnections to meet space requirements for new developments that were not inherently space constrained. PG&E claims that San Francisco's description of the space requirements for service are generally exaggerated and suggests that San Francisco should use its own franchise area to locate primary service facilities for space-constrained customers.[51]

24. In addition, PG&E notes that the WDT does not require it to provide temporary service to San Francisco for projects that do not meet the WDT requirements, but that San Francisco may elect shorter terms of service as long as certain requirements are met.[52] PG&E's offer to provide temporary retail service while San Francisco arranges to meet the WDT requirements, in PG&E's view, does not constitute an appropriation of San Francisco's customers or anti-competitive behavior. PG&E disputes San Francisco's allegations that it has engaged in a pattern of delay; instead, argues PG&E, it experiences undue administrative burdens as a result of San Francisco's incomplete applications and scope modifications.[53]

25. According to PG&E, its practice of providing "primary plus" service to Western and not San Francisco is not discriminatory because service to Western is provided pursuant to a non-precedential settlement agreement between PG&E and Western.[54] PG&E argues that the provision in the WDT that it must upgrade its system if necessary to provide WDT service does not govern the level of service PG&E must provide.[55]

C. San Francisco's Reply and Supplements

26. San Francisco asserts that PG&E concedes the fundamental basis of the Complaint, namely, that the WDT "does include secondary service as a possible service

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[50] *Id.* at 18.

[51] *Id.* at 21.

[52] *Id.* at 21-22.

[53] *Id.* at 24-26.

[54] *Id.* at 28.

[55] *Id.* at 30.

option," and that "if the requested load exceeds 75 kW, PG&E informs [San Francisco] that it will need to take primary service."[56] San Francisco argues that PG&E admits to a blanket rule of requiring primary service for loads above 75kW and ignores its obligation under the WDT to build its system to meet the needs of the customer (at the customer's expense).[57] San Francisco asserts PG&E admits to a "new standard" for offering secondary service: load under 75 kW.[58] San Francisco asserts that rejecting applications for secondary service because they are over 75 kW is not just and reasonable if they otherwise meet WDT requirements for secondary service.[59]

27. San Francisco argues PG&E cannot insulate its settlement with Western to treat San Francisco differently. It further contends that same settlement shows that PG&E's reasons for requiring San Francisco's small loads to connect at primary voltage levels do not have merit on the grounds of any technical, safety, or reliability need. San Francisco also reiterates arguments against PG&E's claims regarding technical requirements, saying at most there are issues of fact raised and a hearing should be established.[60]

28. San Francisco invokes filed rate complaints against PG&E's apparent view that it is free to dictate technical interconnection requirements and the service that customers like San Francisco must take, because the WDT does not specify the service level that each point of delivery should receive, and it does not expressly state that the customer can choose the service it wants, stating this argument is flawed for several reasons.[61] First, San Francisco claims that PG&E misrepresents San Francisco as stating that it can unilaterally dictate all technical aspects of interconnection not specified in the WDT or associated agreements; instead, San Francisco argues, it has previously stated that PG&E must apply technical criterial for interconnections under its tariffs reasonably and in a not unduly discriminatory manner.[62] Second, San Francisco asserts that, were PG&E's position correct, customers would have no recourse regardless of what technical requirements were imposed upon them by the tariff administrator—any requirement, no matter how burdensome, would be justified as "administrator's choice," so long as it

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[56] San Francisco Answer at 2 (citing PG&E Answer at 29, 31).

[57] *Id*. at 5.

[58] *Id*. at 6.

[59] *Id*. at 8-9.

[60] *Id*. at 9-10.

[61] *Id*. at 11.

[62] *Id*. at 12.

were not contrary to something specified in the tariff.[63] Third, San Francisco argues that PG&E's approach defeats the purpose of open access tariffs because it can treat one of its customers as it likes so long as the requirements it sets are not specifically barred by the WDT.[64] And, according to San Francisco, this is the sort of anti-competitive and discriminatory actions that open access tariffs were intended to eliminate.[65]

29. Finally, San Francisco asserts that PG&E's factual allegations are inaccurate.[66] According to San Francisco: (1) PG&E has not justified primary service for small loads from a technical, operational, or reliability standpoint; (2) San Francisco has been required to sacrifice space to primary facilities; (3) San Francisco has been refused secondary service and forced to engage in protracted negotiations for any concession; (4) PG&E's insistence on primary service has led to significant delays; (5) PG&E has used delays to assume service of San Francisco's customers; and (6) installing facilities in San Francisco's franchise area is not a reasonable solution.[67]

30. In its first supplement to its reply, San Francisco asserts that PG&E is refusing to give any accommodations regarding granting secondary service to delivery points as mentioned in its reply.[68] San Francisco attaches a letter from PG&E to San Francisco, in which PG&E seeks documentation to process certain projects for primary service.

31. In its second supplement to its reply, San Francisco asserts that PG&E provided misleading information regarding the size of compact equipment that San Francisco could install to address its concerns regarding the space needed to install primary metering equipment.[69] San Francisco argues that such equipment does not exist, and complains that PG&E subsequently told it that the equipment it described was hypothetical.[70]

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[63] *Id*.

[64] *Id*. at 11-12.

[65] *Id*.

[66] *Id*. at 15.

[67] *Id*. at 15-27.

[68] First Supplement to Reply at 2-3.

[69] Second Supplement to Reply at 2 (citing PG&E Answer, Thibault Decl. at ¶ 16).

[70] *Id.*

D. PG&E's Second Answer

32. In response to San Francisco's second supplement, PG&E disagrees with San Francisco's characterization of the discussions the parties had regarding the size of the equipment that San Francisco could install to address its concerns regarding the space needed to install primary metering equipment. PG&E also states that it is not its responsibility to develop engineering solutions to accommodate San Francisco's desire to use a more compact primary metering design. PG&E argues that this is San Francisco's responsibility and as such it should either work with equipment manufacturers following PG&E's Greenbook,[71] or install existing primary metering equipment when the interconnection requires primary distribution voltage.[72] PG&E explains that it agreed to review and consider any equipment that San Francisco and the vendor it selected might develop and submit to PG&E for approval.[73]

III. Discussion

A. Procedural Matters

33. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), Turlock Irrigation District's timely, unopposed motion to intervene serves to make it a party to this proceeding.

34. 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 an answer unless otherwise ordered by decisional authority. We accept San Francisco's reply and supplements to PG&E's answer, as well as PG&E's second answer, because they provided information that assisted us in our decision-making process.

B. Commission Determination

35. We deny the Complaint. For the reasons discussed herein, we find, based upon the record here, that PG&E has not violated the terms of the WDT and has not unreasonably denied San Francisco wholesale distribution service at secondary voltage levels.

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[71] PG&E, *Electric and Gas Service Requirements* (Greenbook) (2017-2018), https://www.pge.com/en_US/large-business/services/building-and-renovation/greenbook-manual-online/greenbook-manual-online.page.

[72] PG&E Second Answer at 5.

[73] *Id.* at 6.

36. At the outset, we note that there is no dispute that secondary service is available under WDT section 14.2.1,[74] and that a customer such as San Francisco can request that service.[75] In fact, San Francisco has received secondary service under the WDT for the majority of its interconnections with PG&E.[76] We also agree that PG&E can and has offered what is termed "primary plus" service to San Francisco and other customers in limited circumstances.[77]

37. Although PG&E has provided San Francisco and a limited number of other customers with secondary service and primary plus service, we agree with PG&E that primary service is the industry norm for utility-to-utility interconnections, and secondary service is an exception.[78] Apart from San Francisco and Western, all of PG&E's WDT interconnection customers take service at primary voltage.[79] And, as discussed herein, PG&E's provision of secondary service to Western resulted from a settlement. Even as San Francisco argues that PG&E is treating it in an unduly discriminatory manner, it

[74] This provision of the WDT sets forth the different intervening facilities (e.g., transformers, disconnect switches, protective devices, poles, and other facilities) that may or may not be required for primary and secondary service.

[75] *See, e.g.*, PG&E Answer at 5-6 (explaining that the WDT provides for primary and secondary service and that a customer can request such service, although PG&E may not be able to provide the level of service requested).

[76] *Id.* at 8 ("[E]ven by [San Francisco's] own account, PG&E has been providing secondary service to [San Francisco] under the WDT, and has granted a substantial majority (72 out of 122) of the requests…for secondary service without any disagreement."); *id.* at 9 (explaining that, since San Francisco started taking WDT service effective July 1, 2015, 91 of the 112 distribution interconnections initiated by San Francisco were at secondary voltage levels, while 21 were at primary voltage).

[77] *Id.* at 14-15, 29; Complaint at 14.

[78] PG&E Answer, Thibault Decl. ¶ 11.

[79] *Id.*, Thibault Decl. ¶¶ 11-12 (explaining that secondary interconnections between utilities create ambiguity and operational and engineering challenges, and thus, outside of the historical circumstances in San Francisco, are not permitted elsewhere). PG&E also provides secondary service to two points of interconnection between PG&E and the Power and Water Resources Pooling Authority (Pooling Authority); however, the Pooling Authority has not been found to be an eligible WDT customer, though it receives WDT service for specified points of interconnection, pursuant to a settlement between the parties. *See Power and Water Resources Pooling Auth. v. Pac. Gas & Elec. Co.*, 132 FERC ¶ 61,263 (2010) (approving settlement).

"does not, of course, dispute that most utility-to-utility interconnections are at primary voltage."[80] Nonetheless, the record evidence shows that PG&E not only provided secondary service to a number of San Francisco's loads pursuant to the WDT, but has also provided variances, such as low-side metering or primary plus service, for other loads for which San Francisco sought interconnection.[81] Based on the record evidence, we are not persuaded by San Francisco's claim that PG&E's treatment of San Francisco violates the filed rate doctrine.

38. While the WDT does not preclude a WDT customer from requesting the level of service that it wishes to take, PG&E, as the wholesale distribution service provider, is ultimately responsible for the safety and reliability of its distribution system. Accordingly, we find that it is appropriate for PG&E, as that provider, to have discretion to determine what level of service is both appropriate and available based upon the status and configuration of its existing wholesale distribution system facilities and the nature and location of the interconnection request.[82] Although San Francisco suggests that PG&E could accommodate secondary service for loads of up to 3,000 kW, as it does for retail customers under Electric Rule No. 2 in its retail tariff,[83] we find that Electric Rule No. 2 is a retail-level standard that is not necessarily congruent with the requirements of interconnecting wholesale customers such as San Francisco, and we decline to require

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[80] San Francisco Answer at 15-16. San Francisco's further argument in this regard – that most of PG&E's other WDT customers have only a couple of points of interconnection – does not answer why there should be different standards for different WDT customers as a general matter. *See id.* at 16. We address San Francisco's specific argument about Western's arrangements with PG&E below.

[81] *See* PG&E Answer at 13-14 (chart detailing where PG&E has provided secondary service and low-side metering for a number of San Francisco interconnections that were greater than 75 kW); *see also id.*, attach. PGE-0001-2 (describing timelines for Geneva Car Barn project, where PG&E granted a variance to San Francisco and offered primary plus service).

[82] *Id.* at 6.

[83] Complaint at 10. We recognize that San Francisco is not asking that Electric Rule No. 2 be binding in the wholesale distribution context, but rather believes that it is an objective standard that the Commission should apply here. *See* San Francisco Answer at 17. We disagree with San Francisco that we should apply Electric Rule No. 2 here. Electric Rule No. 2 was adopted to meet the requirements of serving PG&E's retail customers and it is therefore not necessarily an objective standard that should be applied for wholesale distribution service.

PG&E to adopt it. We do not find that PG&E is violating the Commission's open access principles by declining to apply non-jurisdictional retail tariff provisions in the WDT.[84]

39. We recognize San Francisco complains about delays that it alleges were caused by PG&E's refusal to provide secondary service for certain of San Francisco's projects at the outset, as well as its allegations that it has lost retail customers to PG&E as a result of such delays.[85] Our review of the record reveals that such delays were largely a consequence of requesting interconnection for projects with loads greater than what PG&E has normally accepted for secondary service under the WDT.[86] We believe it is reasonable that secondary service requests under those circumstances may lead to further negotiations and, consequently, delay.[87]

40. Moreover, we find that the record shows that none of the specific examples San Francisco provides – Randall Museum, Balboa Pool, and Central Waterfront Navigation Center – demonstrate a pattern of unreasonable delays on PG&E's part, especially when there have been mitigating circumstances such as San Francisco's own delays in responding to PG&E. We note that, in Mr. Hailemichael's declaration, he describes San Francisco's incomplete applications and PG&E's repeated efforts to obtain information required to engineer and build out requested services.[88] Further, PG&E ultimately accommodated San Francisco's scope change and request for secondary service at the Randall Museum and provided for a variance with low-side metering at the

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[84] San Francisco asserts that vesting PG&E with such discretion will negatively impact the interconnection of distributed energy resources in the future. San Francisco Answer at 14-15. We find San Francisco's argument to be beyond the scope of this complaint proceeding.

[85] *See, e.g.*, Complaint, Hale Decl. ¶¶ 17-24 (describing delays associated with the Randall Museum and Balboa Pool projects, as well as the loss of a retail customer to PG&E as a result of delays associated with the Central Waterfront Navigation Center).

[86] *See, e.g.*, PG&E Answer at 18-19.

[87] Indeed, San Francisco implies that it only seeks primary service for loads of more than 2,000 kW. San Francisco Answer at 16 ("In fact, San Francisco has applied for primary service where its loads exceed 2,000 kW.").

[88] PG&E Answer, Hailemichael Decl. ¶ 8. For example, as Mr. Hailemichael points out, with respect to the Randall Museum project (which San Francisco had provided as an example of delays caused by PG&E's unwillingness to provide San Francisco with secondary service), after PG&E rejected San Francisco's initial application as incomplete, it took San Francisco nearly six months to provide all of the requested and necessary information to PG&E. *Id.*, Hailemichael Decl. ¶¶ 9-10.

Balboa Pool. Moreover, with respect to San Francisco's argument that it lost a retail customer to PG&E as a result of PG&E's delays, we find that PG&E's response that some San Francisco customers have taken retail temporary construction power service under PG&E's retail tariff is reasonable and does not show that San Francisco "lost" a customer to PG&E.[89] Therefore, we find, based on our review of the record, especially with respect to the specific examples provided by San Francisco in its Complaint, that PG&E has not unreasonably denied service or implemented the WDT in an unjust, unreasonable, or unduly discriminatory manner as it relates to providing WDT interconnection service to San Francisco.[90]

41. With regard to San Francisco's assertion that PG&E's service options have required San Francisco to redesign projects due to space constraints, we agree with PG&E that San Francisco should plan its projects from the outset to provide the space needed for the necessary service.[91] Again, while a WDT customer may request secondary service, it is not guaranteed that the customer will receive secondary service and should plan accordingly. The record here shows that San Francisco failed to design interconnections to meet space requirements for projects that were not inherently space constrained.[92] The record also shows that PG&E has worked with San Francisco when there have been actual physical space issues.[93]

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[89] PG&E Answer at 22-23.

[90] San Francisco argues in its July 18, 2019 supplement that PG&E is no longer providing any accommodation for San Francisco's projects, appending a letter from PG&E purporting to do just that. We do not find San Francisco's contention persuasive. First, the letter is primarily in reference to specific projects. Second, while the letter also states that PG&E is not willing to make further accommodations without a long-term solution, San Francisco's claim regarding potential future projects is speculative. For example, San Francisco and PG&E may reach such a "long-term solution" or come to some other agreement. In any event, for the reasons discussed in this order, we find that PG&E has not misapplied the WDT or treated San Francisco in an unduly discriminatory manner.

[91] PG&E Answer at 17-21. Regarding San Francisco's complaint in its February 26, 2020 supplement that PG&E provided misleading information about the availability of smaller-sized primary metering equipment, we understand that this was a suggestion offered by PG&E, based on equipment that could be sized in accordance with PG&E's technical guidelines.

[92] PG&E Answer at 18.

[93] *E.g.*, *id.* at 19 ("PG&E has always articulated to [San Francisco] that existing loads serving City governmental entities are entitled to a variance if the City can

42. We are not persuaded by San Francisco's assertion that PG&E's provision of secondary service to Western pursuant to a settlement dictates that San Francisco also should receive that same service. First, as noted above, the record indicates that San Francisco is the only eligible WDT customer besides Western that receives secondary service.[94] Second, to the extent that San Francisco contends that PG&E not extending the arrangement it agreed to with Western in that settlement to other WDT customers is unduly discriminatory, we disagree. The settlement between PG&E and Western reflects a bargained-for agreement between PG&E and Western and resolved issues related to them. San Francisco is not a party to that settlement and thus has not shown San Francisco and its customers are similarly situated to Western and its customers, or that the terms of that settlement should apply to all of PG&E's WDT customers.

43. Finally, we disagree with San Francisco that PG&E's criteria for determining whether a WDT customer will receive requested secondary service should be included in the WDT, consistent with the Commission's "rule of reason."[95] As noted above, the WDT does address primary and secondary service and PG&E does not dispute that a WDT customer can request secondary service. However, as also discussed above, primary service is the industry norm for utility-to-utility interconnections and nearly all of PG&E's WDT customers are interconnected at primary voltages. San Francisco is one of two WDT customers that have loads served at secondary voltages and the only WDT customer served at secondary voltages that did not result from a settlement. Moreover, we believe that it is appropriate that PG&E, as the service provider, be able to determine, based on the exigencies of each case (based on load size, location, and other factors), whether it is appropriate to grant a request for secondary service.[96]

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demonstrate that there is insufficient space for upgrade facilities."). PG&E notes that the Balboa Pool example raised by San Francisco is one such instance where PG&E made this accommodation. *Id.*

[94] As noted above, the Pooling Authority, which has not been found to be a WDT-eligible customer, also receives secondary service at two points of interconnection, pursuant to a settlement with PG&E.

[95] *See* San Francisco Answer at 8-9.

[96] Indeed, while PG&E has used a standard of 75 kW, it has applied it flexibly to San Francisco's benefit in many cases, as discussed above. Further, PG&E has been able to work with San Francisco in a number of instances to provide variances for other loads.

The Commission orders:

The Complaint is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.