

166 FERC ¶ 61,130  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

February 21, 2019

In Reply Refer To:  
Pacific Gas and Electric Company  
Docket No. EL18-108-000

Mr. Mark D. Patrizio  
Pacific Gas and Electric Company  
P.O. Box 7442  
San Francisco, CA 94120-7442

Attention: Mark D. Patrizio, Esq.

Dear Mr. Patrizio:

1. On December 20, 2018, Pacific Gas and Electric Company (PG&E) filed a motion to dismiss the proceeding in Docket No. EL18-108-000, as initiated by the Commission pursuant to section 206 of the Federal Power Act (FPA).<sup>1</sup> Answers to the motion were due on January 4, 2019. None were received. In this order, we grant PG&E's unopposed motion, find that PG&E has shown cause as to why its stated transmission rates do not need to be reduced, and terminate the FPA section 206 proceeding.

2. On March 15, 2018, the Commission issued several orders to address the effects of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act),<sup>2</sup> which, among other things, reduced the federal corporate income tax rate from 35 percent to 21 percent.<sup>3</sup> Of relevance here, pursuant to FPA section 206, the Commission issued the Stated Rate Order to Show Cause to public utilities that use stated transmission rates under an open access transmission tariff or transmission owner tariff.

3. The Commission stated that the reduced tax rate results in lower income tax expenses for public utilities going forward. The Commission explained that public

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<sup>1</sup> 16 U.S.C. § 824e (2012).

<sup>2</sup> Tax Cuts & Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

<sup>3</sup> *Alcoa Power Generating Inc.—Long Sault Division*, 162 FERC ¶ 61,224 (2018) (Stated Rate Order to Show Cause).

utilities recover federal corporate income tax expenses in their transmission rates, and that when tax expenses decrease, so does the cost of service.<sup>4</sup> The Commission continued that it has allowed transmission rates to be established through, among other things, stated rates, which include a fixed income tax component.<sup>5</sup> The Commission identified PG&E as having such an arrangement in effect, and that absent a change to PG&E's stated transmission rates, PG&E's stated transmission rates may not accurately reflect its cost of service. Accordingly, the Commission found that PG&E's stated transmission rates appear to be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful, and directed PG&E to either (1) propose revisions to its stated transmission rate under its tariff, or (2) show cause why it should not be required to do so.<sup>6</sup> The Commission also noted that, under the show cause option, PG&E may explain how the reduced tax rate is being addressed in another proceeding pending before the Commission.<sup>7</sup>

4. On May 14, 2018, PG&E filed its response to the Commission's Stated Rate Order to Show Cause, arguing that it should not be required to submit proposed revisions to its stated transmission rates or revenue requirements to reflect the reduction in the federal corporate income tax rate because its nineteenth transmission owner tariff rate case (TO19) was pending before the Commission.<sup>8</sup> Rather than making a separate filing at that time to address only the tax-related components of its stated rates, PG&E committed to reflect the reduced federal corporate income tax obligation fully in any settlement, or if settlement cannot be reached, in the litigated outcome of the TO19 proceeding.<sup>9</sup> PG&E asserted that, under this approach, PG&E's customers would have greater refund protection than a stand-alone tax filing in this proceeding, because the refund effective date would be earlier than the refund effective date established by the Stated Rate Order to Show Cause.<sup>10</sup> Thus, PG&E concluded that not only will administrative efficiency be accomplished by allowing the tax issue to be resolved in the TO19 proceeding, but customers will receive greater refund protection.

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<sup>4</sup> *Id.* PP 2-4.

<sup>5</sup> *Id.* P 3.

<sup>6</sup> *Id.* P 4.

<sup>7</sup> *Id.* P 4 n.7.

<sup>8</sup> PG&E Response at 1-2.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* at 2, 4.

5. On November 15, 2018, the Commission issued an order acknowledging PG&E's response and holding the FPA section 206 proceeding in abeyance pending the final outcome of the TO19 proceeding.<sup>11</sup> PG&E had already submitted an uncontested offer of settlement and stipulation resolving the issues set for hearing in the TO19 proceeding (TO19 Settlement) on September 21, 2018, but the TO19 Settlement was pending as of the date the PG&E Tax-Related Order was issued. The Commission approved the TO19 Settlement, subject to a compliance filing, on December 20, 2018.<sup>12</sup>

6. Also on December 20, 2018 and following the Commission's approval of the TO19 Settlement, PG&E filed a motion to dismiss the instant FPA section 206 proceeding and close the docket.<sup>13</sup> PG&E argues that the TO19 Settlement fully addresses the effects of the Tax Cuts and Jobs Act on PG&E's TO19 rates, and as a result, the Commission should dismiss the Stated Rate Order to Show Cause and close this proceeding.<sup>14</sup>

7. We find that, in light of the Commission-approved TO19 Settlement in Docket Nos. ER17-2154-000 and EL17-95-000, PG&E has shown cause why its stated transmission rates do not need to be revised.<sup>15</sup> We therefore grant PG&E's unopposed

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<sup>11</sup> *Pac. Gas & Elec. Co.*, 165 FERC ¶ 61,131, at PP 1, 18-19 (2018) (PG&E Tax-Related Order). This order was amended by an Errata Notice issued on December 7, 2018.

<sup>12</sup> *Pac. Gas & Elec. Co.*, 165 FERC ¶ 61,244, at PP 3-4 (2018) (TO19 Settlement Order). The TO19 Settlement rate is based on a formula that requires inputs from PG&E's final eighteenth transmission owner tariff rate (TO18). The TO18 rate, however, is currently pending before the Commission on exception to an Initial Decision. *See Pac. Gas & Elec. Co.*, 165 FERC ¶ 63,001 (2018). Thus, the Commission required PG&E to update the TO19 Settlement rate within 30 days of the final, non-appealable TO18 rates. TO19 Settlement Order, 165 FERC ¶ 61,244 at P 4.

<sup>13</sup> PG&E Motion at 1, 5.

<sup>14</sup> *Id.* at 4 (citing PG&E, Offer of Settlement and Stipulation, Docket Nos. ER17-2154-000 and EL17-95-000, § 4.6; *Pac. Gas & Elec. Co.*, 165 FERC ¶ 63,019 at P 31).

<sup>15</sup> *See* Stated Rate Order to Show Cause, 162 FERC ¶ 61,224 at P 4, n.7 (noting that respondents may explain how the reduced tax rate is being addressed in another proceeding); PG&E Tax-Related Order, 165 FERC ¶ 61,131 at P 18 (holding the proceeding in abeyance pending the final outcome of the TO19 proceeding); TO19 Settlement Order, 165 FERC ¶ 61,244 at PP 3-4 (approving PG&E's TO19 Settlement).

motion and terminate the FPA section 206 proceeding initiated in Docket No. EL18-108-000.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.