

TABLE OF CONTENTS

SUMMARY 1

BACKGROUND..... 3

I. Procedural Background 3

II. Factual Background..... 6

A. The COTP 6

B. The Coordinated Operations Agreement 7

**C. Formation of the ISO and Assumption of
PG&E Control Area Responsibilities 8**

D. Pre-operations Discussions 9

E. Post Operations Practices 11

III. Arbitration Decision..... 13

STANDARD OF REVIEW 14

ARGUMENT 16

**I. The ISO Tariff provides Authority to the ISO
to Charge for Ancillary Services Procured in
Support of Transactions Within the ISO Control
Area but Not on the ISO Controlled Grid 16**

**A. The ISO Tariff Unambiguously Provides
Authority to the ISO to Charge for Ancillary
Services Procured in Support of Transactions
Within the ISO Control Area, but Not on the
ISO Controlled Grid, Because Those Ancillary
Services Are Necessary to Maintain the
Reliability of the ISO Controlled Grid 16**

**B. In Order to Give Meaning to the Whole of the
ISO Tariff, It Must Be Interpreted to Provide
the ISO with Authority to Charge for Ancillary
Services Procured in Support of Transactions
Within the ISO Control Area, but Not on the
ISO Controlled Grid..... 18**

C. The ISO’s Authority to Charge for Ancillary Services Procured for Transactions Within the ISO Control Area but Not on the ISO Controlled Grid Is Supported By the Commission’s Standards for Tariff Interpretation	23
D. Cost Causation Principles Support the ISO’s Authority to Recover the Cost of Ancillary Services Procured for COTP Transactions from the Scheduling Coordinator for Those Transactions	27
E. The Commission’s Order on Amendment No. 2 Does Not Imply Any Lack of Authority to Charge Scheduling Coordinators for Ancillary Services in the Control Area.....	29
II. As Scheduling Coordinator for the COTP, PG&E Is Responsible for the Ancillary Services Charges.....	32
III. PG&E Was Not Excused From Its Obligation to Pay for Ancillary Services by Virtue of “Self-Provision” of the Ancillary Services Required in Connection With the COTP Schedules	38
IV. PG&E’s Claim is Time-Barred.....	41
CONCLUSION	42

TABLE OF AUTHORITIES

FEDERAL CASES

<i>Consolidated Gas Transmission Corp. v. FERC</i> , 771 F.2d 1526 (D.C. Cir. 1985).....	18
<i>New York v. FERC</i> , 121 S.Ct. 1185 (2001).....	25
<i>Transmission Access Policy Study Group, et al. v. FERC</i> , 225 F.3d 667 (D.C. Cir. 2000)	25
<i>Western Mass. Elec. Co. v. FERC</i> , 165 F.3d 922 (D.C. Cir. 1999)	27

FEDERAL ADMINISTRATIVE CASES

	<u>Page</u>
<i>California Ind. System Oper. Corp.</i> , 82 F.E.R.C. ¶ 61,213 (1998).....	5
<i>California Ind. System Oper. Corp.</i> , 82 F.E.R.C. ¶ 61,348 (1998).....	31
<i>California Ind. System Oper. Corp.</i> , 82 F.E.R.C. ¶ 61,312 (1998).....	31
<i>California Ind. System Oper. Corp.</i> , 97 F.E.R.C. ¶ 61,151 (2001).....	37-38
<i>Central Hudson Gas & Electric Corp.</i> , 61 F.E.R.C. ¶ 61,089 (1992)	32
<i>Central Maine Power Co.</i> , 56 F.E.R.C. ¶ 61,200 (1991).....	32
<i>Columbia Gas Transmission Corp.</i> , 27 F.E.R.C. ¶ 61,089 (1984).....	18
<i>ISO Controlled Grid.</i> , 82 F.E.R.C. ¶ 61,312	31
<i>AEP Generating Co.</i> , 39 F.E.R.C. ¶ 61,158 (1987)	24
<i>Northeast Associates v. Boston Edison</i> , 91 F.E.R.C. ¶ 61,069 (2000).....	19
<i>Order No. 888</i> , 61 Fed. Reg. 21, 540 (1996).....	25
<i>Order No. 888-A</i> , 62 Fed. Reg. 12,274 (1997)	25
<i>Order No. 888-B</i> , 81 F.E.R.C. ¶ 61,248 (1997).....	25
<i>Order No. 888-C</i> , 82 F.E.R.C. ¶ 61,046 (1998)	25
<i>PacifiCorp Electric Operations</i> , 60 F.E.R.C. ¶ 61,292 (1992).....	32, 36

FEDERAL ADMINISTRATIVE CASES (cont'd)

	<u>Page</u>
<i>Pacific Gas and Electric Company</i> , 94 F.E.R.C. ¶ 61,204 (2001)	35
<i>Pacific Gas and Electric Company, et al.</i> , 77 F.E.R.C. ¶ 61,204 (1996)	8, 25
<i>Pacific Gas and Electric Company, et al.</i> , 81 F.E.R.C. ¶ 61,122 (1997)	8, 24-26
<i>Pacific Gas & Electric Co.</i> , 93 F.E.R.C. ¶ 61,322 (2000)	7, 35
<i>Penn Central Co. v. General Mills, Inc.</i> , 439 F.2d 1338 (8 th Cir. 1971)	24
<i>Seminole Electric Cooperative, Inc.</i> , 46 F.E.R.C. ¶ 61,119 (1989)	27
<i>Western Mass. Electric Co.</i> , 66 F.E.R.C. ¶ 61,167 (1994)	27-28