

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Pacific Gas and Electric Company

Docket Nos. ER04-142-000,
ER04-143-000 and
ER04-295-000
(Consolidated)

**MOTION FOR APPROVAL OF SETTLEMENT RATES
PENDING APPROVAL OF OFFER OF SETTLEMENT**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. Section 385.212 (2003), Pacific Gas and Electric Company (“PG&E”) and the California Independent System Operator Corporation (“CAISO”) (collectively the “Sponsoring Parties”) hereby move that the Commission grant the Sponsoring Parties immediate conditional approval of the rates provided for in the settlement (“Settlement”) filed concurrently in the captioned dockets with this motion (“Motion”), and authorize the Sponsoring Parties to implement these rates effective immediately, subject to refund if, upon review, the Commission rejects the Settlement or modifies it in a way that causes a Sponsoring Party to reject it. A copy of the Offer of Settlement and Explanatory Statement (“Settlement Documents”) are attached hereto. In support of this Motion, the Sponsoring Parties state as follows.

The captioned consolidated proceedings pertain to PG&E’s annual revision to its Reliability Must Run Service Agreements (“RMR Agreements”) between PG&E and CAISO for PG&E’s RMR Facilities.^{1/} PG&E’s filings propose certain revised rates and terms of service for

^{1/} PG&E’s RMR Facilities are the Helms Power Plant, Humboldt Bay Power Plant, Hunters Point Power Plant, San Joaquin Power Plant and Kings River Watershed.

the 2004 Contract Year for the RMR Agreements. The only other parties to these proceedings are the California Public Utilities Commission (“CPUC”) and the California Electricity Oversight Board (“EOB”).^{2/} In an order dated December 29, 2003, issued in Docket Nos. ER04-142-000 and ER04-143-000, the Commission accepted for filing and made effective January 1, 2004, subject to refund, the rates PG&E filed on October 30, 2003 pursuant to Section 205 of the Federal Power Act. In an order dated February 12, 2004, issued in Docket No. ER04-295-000, the Commission accepted for filing and made effective January 1, 2004, subject to refund, the rates filed by PG&E on December 17, 2003. The February 12 order also consolidated Docket Nos. ER04-142-000, ER04-143-000 and ER04-295-000 (collectively “Settlement Dockets”).

Over the past couple of months, the Sponsoring Parties, the CPUC and the EOB (collectively “Parties”) have engaged in informal discovery and discussions seeking to reach agreement on the rates at issue in these dockets. During the last few weeks, FERC staff has been included in the discussions. The Parties have reached the Settlement, and the Sponsoring Parties are submitting the corresponding Settlement Documents today. The CPUC, the EOB, and FERC Staff have authorized the Sponsoring Parties to represent that they do not object to this Motion. Thus, the Sponsoring Parties anticipate no comments will be filed in opposition to the Settlement. Accordingly, the Sponsoring Parties have requested that the Settlement Judge shorten the initial comment period for the Offer of Settlement provided for under Rule 602(f) from twenty (20)

^{2/} The EOB intervened in all three dockets. The CPUC intervened only in Docket Nos. ER04-142-000 and ER04-143-000.

days to seven (7) days and shorten the reply comment period from thirty (30) days to twelve (12) days to expedite approval and implementation of this uncontested settlement.^{3/}

The Sponsoring Parties hereby request immediate conditional approval of the rates provided for by the Settlement, pending Commission review of the Settlement.^{4/} As discussed above, the rates as initially proposed and filed by PG&E for Contract Year 2004 have been accepted for filing and made effective January 1, 2004, subject to refund. The Settlement provides for rates that are lower than those approved in the Commission's orders of December 29, 2003 and February 12, 2004. Thus, giving immediate effect to the terms of the Settlement, pending Commission review, would effectively constitute the issuance of an initial refund order. Because final billing has not yet occurred in the 2004 Contract Year, immediate conditional acceptance of the rates provided for in the Settlement would allow the Sponsoring Parties to bill in accordance with the rates provided for in the Settlement, thereby avoiding the considerable administrative burden associated with providing the refund under the RMR Agreements' billing and invoicing requirements. This would reduce the costs associated with the Settlement, which would ultimately be borne by California ratepayers, and the Motion is therefore in the public interest.

WHEREFORE, the Sponsoring Parties respectfully request with respect to the Settlement filed concurrently with this Motion, that the Commission grant the Sponsoring Parties immediate conditional approval of the rates provided in the Settlement and authorize the Sponsoring Parties to implement these rates effective immediately, subject to refund if, upon

^{3/} Comment periods are governed by Rule 602(f) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602(f) (2003).

^{4/} The revised tariff sheets accompany the Settlement Documents, which are also being filed today.

review, the Commission rejects the Settlement or modifies it in a way that causes a Sponsoring Party to reject it.

Respectfully submitted,

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Dated: February 23, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have served, via U.S. mail, the foregoing document upon each person designated on the official service list compiled by the Secretary in Docket Nos. ER04-142-000; ER04-143-000 and ER04-295-000.

Dated this 23rd day of February 2004.

/s/ Mary Anne Sullivan
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