

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION  
102 FERC ¶ 61,270

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Pacific Gas and Electric Company

Docket No. ER03-409-000

ORDER ACCEPTING FOR FILING AND SUSPENDING PROPOSED RATES, AND  
ESTABLISHING HEARING PROCEDURES

(Issued March 12, 2003)

1. In this order, we accept for filing, suspend and set for hearing proposed rates under the Transmission Owner Tariff (TO Tariff) of Pacific Gas and Electric Company (PG&E). This order benefits customers because it will ensure that transmission rates are just and reasonable.

**Background**

2. On January 13, 2003, PG&E filed for an increase in its electric transmission rates under its TO Tariff. PG&E states that the increase is necessary to cover PG&E's costs associated with meeting increased demand, and expanding and replacing infrastructure in 2002 and 2003. PG&E is not proposing any changes to the non-rate terms and conditions of the TO Tariff.

3. PG&E projects a 2003 revenue requirement of \$545 million for network transmission service. PG&E states that the Commission recently approved an Offer of Settlement, effective May 6, 2001, in Docket No. ER01-66-000.<sup>1</sup> Under the terms of the Settlement, the network transmission rates produce \$379 million in annual revenues. PG&E seeks an increase of \$166 million from those rates.

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<sup>1</sup>Pacific Gas and Electric Company, 96 FERC ¶ 61,122 (2001).

4. PG&E requests a 15-year depreciation life for the transmission facilities that will be put into service in 2003. In support of this request, PG&E states that a shorter capital recovery period would provide needed cash flow to finance the construction of transmission additions. PG&E also believes a 15-year capital recovery period is a more realistic measure of the economic life of transmission assets coming into service in 2003. Furthermore, PG&E states that the Commission granted PG&E's ratemaking request for a 10-year depreciable life for its Path 15 Project facilities in the June 12 Order.<sup>2</sup>

5. PG&E requests an effective date one day after the Commission accepts its filing or as soon thereafter as the Commission deems appropriate.

### **Notice and Intervention**

6. Notice of PG&E's filing was published in the Federal Register, 68 Fed. Reg. 3023 (2003), with comments, protests, and interventions due on or before February 3, 2003.

7. Timely unopposed motions to intervene raising no substantive issues were filed by Turlock Irrigation District, Cogeneration Association of California, Southern California Edison, San Diego Gas and Electric, Merced Irrigation District, San Francisco City Attorney's Office, and Mirant Corporation. California ISO filed an untimely motion to intervene.

8. The following parties filed timely interventions and protests: California Department of Water Resources (CDWR), Northern California Power Agency, Transmission Agency of Northern California (TANC), Metropolitan Water District of Southern California, Modesto Irrigation District, M-S-R Public Power Agency, and Sacramento Municipal Utility District (SMUD). The California Public Utilities Commission (California Commission) filed a notice of intervention, protest and request for hearing.

9. PG&E filed an answer to SMUD's and TANC's protests.

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<sup>2</sup>See Western Area Power Administration, 99 FERC ¶ 61,306 (2002) (June 12 Order), order on reh'g, 100 FERC ¶ 61,331 (2002).

### Discussion

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), the timely, unopposed motions to intervene and the notice of intervention referenced above serve to make those submitting them parties to this proceeding. In addition, we find good cause to grant California ISO's unopposed, untimely motion to intervene. We are satisfied that California ISO's late intervention will not unduly prejudice and party or unduly delay this proceeding, and that California ISO's participation may be in the public interest. With respect to PG&E's answer, Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2002), prohibits the filing of an answer to a protest unless otherwise permitted by the decisional authority. We are not persuaded to allow the proposed answer and, accordingly, will reject it.

11. Several interveners object to PG&E's proposed 13.5 return on equity, the forecasted additions to transmission plant and transmission O&M expenses, and the 15-year depreciation life for transmission additions in 2003. TANC and SMUD argue that PG&E's forecast of new transmission plant additions is excessive compared to actual plant additions in previous years. TANC and the California Commission contend that PG&E has included in its proposed rate base capital additions for projects that will not provide service in 2003.

12. SMUD and TANC argue that PG&E has not justified its proposed 15-year depreciation life given the expected useful life of the transmission facilities, and provides no studies to support this accelerated depreciation rate. SMUD argues that the proposed 15-year depreciation treatment should be summarily rejected.

13. SMUD, the California Commission, and CDWR argue that PG&E's transmission rate improperly includes generation tie and generation step-up facilities. SMUD notes that this issue has already been litigated in Docket No. ER99-2326-000, and an Initial Decision was issued on October 31, 2001.<sup>3</sup> SMUD requests that the Commission make this issue subject to the outcome of Docket No. ER99-2326-000.

14. The issues presented by the intervenors raise factual matters that are best resolved at hearing. In this regard, we are not persuaded by PG&E's arguments to summarily accept an economic service life of 15 years for transmission plant additions put into service in 2003.

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<sup>3</sup>Pacific Gas & Electric Company, 97 FERC ¶ 63,014 (2001), exceptions pending.

15. Furthermore, we note that the classification of PG&E's generation tie and generation step-up facilities is an issue that has been litigated in Docket No. ER99-2326-000. Thus, we will make this issue subject to the outcome of that proceeding.

16. Our preliminary review of the proposed rates indicates that they have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept them for filing, suspend them and make them subject to refund, and set them for hearing.

17. In West Texas Utilities Company,<sup>4</sup> we explained that when our preliminary examination indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in West Texas, we would generally impose a five-month suspension. Here, our examination indicates that the proposed rates may yield substantially excessive revenues. Accordingly, we will accept the proposed rates for filing, suspend them for a five-month period, to become effective on August 13, 2003, subject to refund, and set them for hearing.

The Commission orders:

(A) California ISO's motion to intervene out-of-time is hereby granted.

(B) PG&E's proposed rates are hereby accepted for filing and suspended for a five-month period, to become effective on August 13, 2003, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), public hearing shall be held in Docket No. ER03-409-000 concerning the justness and reasonableness of PG&E's proposed rates, as discussed in the body of this order.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately 15 days of the date of issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street NE, Washington

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<sup>4</sup>18 FERC ¶ 61,189 at 61,374 (1982).

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DC 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.