

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Duke Energy Oakland, LLC

Docket No. ER01-3034-002

ORDER GRANTING REHEARING

(Issued February 1, 2002)

On November 16, 2001, Pacific Gas and Electric Company (PG&E) filed a request for rehearing of the letter order issued by the Commission staff, pursuant to delegated authority, on October 17, 2001 (October 17 letter order). For the reasons appearing below, rehearing is granted.

On September 10, 2001, as amended on September 20, 2001, Duke Energy Oakland, LLC (Duke) filed revisions to its Reliability Must Run Service Agreement with the California Independent System Operator. The revisions included changes to certain plant-specific schedules, altering the rates charged under the agreement. The October 17 letter order accepted the proposed revisions.

In its request for rehearing, PG&E states that, while the Duke filings did not specifically state that the altered rates would result in a refund, PG&E expects that a refund will be required, and that the refund amount will be more than \$20 million. It therefore asked the Commission to grant rehearing of the October 17 letter order, to require both a refund to be issued by Duke within 30 days of issuance of this order on rehearing and a Duke refund report within 30 days of such refund.

On November 30, 2001, Duke filed a motion for leave to answer the request for rehearing of PG&E and its answer. In its answer, Duke states that it does not disagree in principle with PG&E. It states that, to the extent Duke has collected amounts in excess of the revised rates since the effective dates specified in the October 17 letter order, Duke

DOCKETED

CO

020204-0446-1

will make refunds, with interest, in accordance with the Commission's regulations.¹ Duke further states that it will calculate any appropriate refund according to Commission regulations and will file a subsequent refund report.

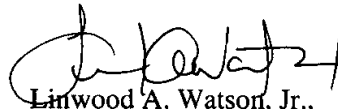
Based on the parties' representations in their pleadings, we are satisfied that Duke will make any necessary refunds and will file a refund report of any refunds made as a result of the revisions to its stated agreement.

The Commission orders:

Duke Energy Oakland, LLC is hereby directed to calculate any amounts collected in excess of the revised rates from the effective dates thereof, plus interest, and to make refunds within 30 days of the date of the issuance of this order. Duke Energy Oakland, LLC shall file a refund report within 30 days of making such refunds.

By the Commission.

(S E A L)



Linwood A. Watson, Jr.,
Deputy Secretary.

¹18 C.F.R. § 35.19a (2001).