



A. Summary of Prior Orders

In 1998, the Commission approved a settlement which established the GMC as a formula rate designed to recover the ISO's operational costs (GMC Settlement).<sup>1</sup> The GMC is charged to all Scheduling Coordinators, among them, PG&E. PG&E's GMC tariff allows it to pass through the GMC to applicable wholesale contract customers for which PG&E acts as a scheduling Coordinator.

Under the GMC Settlement, the parties agreed to extend the GMC through December 31, 1998, conditioned on the ISO agreeing to study the unbundling of the GMC in order to identify which, if any, of the ISO's functions should be separately priced. Because the ISO had not completed the GMC unbundling study, the Commission later granted extensions of the GMC formula through December 31, 2000, subject to refund and subject to the outcome of the proceeding in which the ISO submits a revised GMC to become effective on January 1, 2001, and initiated proceedings and established refund effective dates pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. § 824e (1994).<sup>2</sup>

On December 15, 1999, in Docket No. ER00-800-000, the ISO submitted an annual informational filing in accordance with the GMC Settlement. The informational filing showed a GMC increase from \$0.778/MWh to \$0.830/MWh, for the period January 1, 2000 to December 31, 2000. On December 27, 1999, in Docket No. ER00-900-000, PG&E filed a proposal to revise its GMC tariff to reflect the updated GMC charge. As discussed above, the February 25 Order accepted the ISO's informational filing as well as PG&E's proposed tariff revision. In so doing, the February 25 Order: (1) noted that neither WPTF nor Enron had complied with a provision of the GMC Settlement requiring that parties objecting to the unit rate established in the ISO's informational filing do so by filing a complaint under section 206 of the FPA; (2) rejected the arguments raised by WPTF and Enron because they had been raised in other proceedings, but noted that both parties would be able to pursue their concerns in connection with those other proceedings and/or the proceeding in which the ISO submits a revised GMC to become effective on January 1, 2001; and (3) denied WPTF's and Enron's requests to set the GMC for hearing, because it made little sense to do so until the ISO has produced the GMC unbundling study.

B. The Requests for Rehearing and WPTF's Complaint

On rehearing, WPTF reiterates many of the same arguments that it has made in protest of the ISO's previous GMC filings, e.g., that the GMC is having anticompetitive impacts on WPTF's members and that the Commission erred in accepting the rates proposed in the informational filing without also making them subject to refund and setting them for hearing. In addition, WPTF also disputes the February 25 Order's

determination that a party must file a complaint in order to challenge the GMC rate proposed in the informational filing. Finally, WPTF requests that the Commission clarify that the refund effective dates established in the aforementioned orders continue to apply to all amounts collected under the GMC on and after January 1, 2000.<sup>3</sup> In its request for rehearing or clarification, Enron adopts WPTF's arguments.

WPTF's complaint reiterates the same arguments that it has made in protest of the ISO's previous GMC filings, i.e., that: (1) the GMC is unduly discriminatory and anticompetitive, and it may be excessive; and (2) because the ISO has failed to file a new GMC, the ISO is in violation of the GMC Settlement and should not be allowed to continue charging the GMC.

## II. Notice of Filing and Pleadings

Notice of WPTF's complaint was published in the Federal Register, 65 Fed. Reg. 17,652 (2000), with motions to intervene and protests due on or before April 13, 2000.

Timely motions to intervene, motions to dismiss, motions to answer, comments, and protests were filed by California Municipal Utilities Association; City and County of San Francisco, California (San Francisco); Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency (jointly, Cities/M-S-R); Metropolitan Water District of Southern California (Metropolitan); Modesto Irrigation District (Modesto); Sacramento Municipal Utility District (SMUD); Transmission Agency of Northern California (TANC); and Turlock Irrigation District (Turlock).

A timely notice of intervention raising no substantive issues was filed by the Public Utilities Commission of the State of California. Motions to intervene raising no substantive issues were filed by: the California Department of Water Resources; the California Electricity Oversight Board; the California Power Exchange Corporation; City of Vernon, California; Cogeneration Association of California and Energy Producers and Users Coalition; Duke Energy Trading and Marketing, L.L.C.; Northern California Power Agency; PG&E; Sempra Energy; Southern California Edison Company; Southern Energy California, L.L.C., Southern Energy Delta, L.L.C., and Southern Energy Potrero, L.L.C.; and the Western Area Power Administration.

On April 20, 2000, Williams Energy Marketing & Trading Company (Williams) filed a motion to intervene out-of-time, raising no substantive issues.

On April 13, 2000, the ISO filed an answer. The ISO contends that the informational filing only described the change in the level of the GMC in accordance with the formula rate. It argues that the informational filing did not alter the fact that the GMC is being collected subject to refund and subject to the outcome of the proceeding in

which the ISO files a GMC rate for 2001. Intervenors argue that WPTF's complaint merely reiterates arguments that WPTF raised in prior proceedings and which the Commission has previously addressed. They also dispute WPTF's substantive arguments. They argue that the GMC Settlement and the stakeholder process should be allowed to continue.

On April 28, 2000, WPTF filed an answer in opposition to the motions to dismiss of the ISO, CMUA, San Francisco, SMUD, and Turlock. WPTF responds that it seeks clarification regarding the extent of the refund protection that the February 25 Order alluded to. WPTF also disputes the argument that it has not established a prima facie case for its complaint.

### III. Discussion

#### A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>4</sup> the timely notice of intervention and timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding.

In view of the early stage of this proceeding and the absence of any undue prejudice or delay, we find good cause to grant Williams' unopposed motion to intervene out-of-time.

#### B. Requests for Rehearing and WPTF's Complaint

We clarify that the refund effective dates established in our previous GMC-related proceedings<sup>5</sup> continue to apply to all amounts collected under the GMC on and after January 1, 2000, including the amounts collected pursuant to the ISO's informational filing in Docket No. ER00-800-000.<sup>6</sup> Furthermore, the preceding clarification obviates the need for WPTF and Enron to file a complaint to challenge the GMC proposed in Docket No. ER00-800-000.<sup>7</sup> Accordingly, we will dismiss WPTF's complaint as moot.

The remainder of WPTF's and Enron's arguments reiterate their previous arguments, which were addressed in the February 25 Order. We deny rehearing for the reasons given in the February 25 Order.

The Commission orders:

(A) WPTF's and Enron's requests for clarification are hereby granted, as discussed in the body of this order.

(B) WPTF's and Enron's requests for rehearing are hereby denied.

(C) WPTF's complaint is hereby dismissed as moot.

By the Commission.

( S E A L )

David P. Boergers,  
Secretary.

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<sup>1</sup>California Independent System Operator Corp., 89 FERC ¶ 61,196 (2000) (February 25 Order).

<sup>1</sup>See California Independent System Operator Corp., et al., 83 FERC ¶ 61,247 (1998).

<sup>2</sup>See California Independent System Operator Corp., et al., 85 FERC ¶ 61,433 (1998), order on reh'g, 87 FERC ¶ 61,023 (1999) (California ISO I); California Independent System Operator Corp., 87 FERC ¶ 61,304 (1999), reh'g pending, (California ISO II); Pacific Gas and Electric Co., 88 FERC ¶ 61,003 (1999). In each case, the Commission deferred hearing procedures until the ISO has produced an unbundling study to identify which, if any, of the ISO's functions should be separately priced.

<sup>3</sup>WPTF states that if its request for clarification concerning refund protection is granted, then its request for rehearing concerning refund protection would be moot.

<sup>4</sup>18 C.F.R. § 385.214 (2000).

<sup>5</sup>I.e., the section 206 proceedings initiated in Docket Nos. EL99-47-000 (in which the Commission established a refund effective date of June 7, 1999) and EL99-67-000 (in

which the Commission established a refund effective date of August 23, 1999). See California ISO I, 87 FERC at 61,095, and California ISO II, 87 FERC at 62,230, respectively.

<sup>6</sup>We note that the February 25 Order stated that "our previous orders make the GMC . . . subject to the outcome of investigations in EL99-47-000 and EL99-67-000 and subject to the outcome of the proceeding in which the ISO submits a revised GMC to become effective on January 1, 2001." 90 FERC at 61,637.

<sup>7</sup>However, since the GMC Settlement explicitly requires that parties objecting to the unit rate established in the ISO's annual informational filing must do so by filing a complaint under section 206 of the FPA, if a party seeks refunds, it must file a complaint in any future instances where section 206 refund effective dates have not already been established for the unit rate.