

UNITED STATES OF AMERICA 81 ferc ¶ 61, 321
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
Vicky A. Bailey, William L. Massey,
Linda Breathitt, and Curt Hebert, Jr.

California Independent System Operator Corporation)	Docket No. ER98-211-000
California Power Exchange Corporation)	Docket No. ER98-210-000
Southern California Edison Company)	Docket No. ER98-462-000
Pacific Gas & Electric Company)	Docket No. ER98-556-000 Docket No. ER98-557-000

ORDER ACCEPTING FOR FILING AND SUSPENDING
PROPOSED RATES, GRANTING WAIVER OF NOTICE,
AND ESTABLISHING HEARING PROCEDURES

(Issued December 17, 1997)

In this order, we consolidate, accept for filing, suspend and set for hearing a proposed Grid Management Charge and other pass through charges filed by the California Independent System Operator Corporation (ISO) and a proposed Administrative Charge filed by the California Power Exchange Corporation (PX). In addition, we will also accept for filing, suspend and set for hearing proposed filings by Southern California Edison Company (SoCal Edison) and Pacific Gas & Electric Company (PG&E) to pass through certain ISO and PX charges to their customers under specified contracts.

Background

A. ISO Filing in Docket No. ER98-211-000

On October 17, 1997, the ISO filed under section 35.13(a)(1) of the Commission's regulations, 18 C.F.R. § 35.13(a)(1)(1997), a proposed Grid Management Charge (GMC) and proposed rate schedules

Controlled Grid. 1/ The ISO proposes a formulary GMC to recover the annual costs of operating the ISO, which the ISO estimates will exceed \$100 million per year, and an amortization of start-up and development costs, which the ISO estimates will total approximately \$200 million. Except for certain costs related to operating a communications network, 1/ the GMC would be charged to ISO Scheduling Coordinators and passed on to transmission tariff customers based on their relative loads. In addition, the ISO would pass through to transmission tariff customers the amounts it pays for ancillary services and congestion management, and will pass through the revenues it receives from transmission services for wheeling out and through transactions.

The ISO requests that the proposal be accepted to become effective on January 1, 1998, consistent with its proposal to implement the restructuring of the California Electricity Market on that date.

B. PX Filing in Docket No. ER98-210-000

Also on October 17, 1997, the PX filed under section 35.13(a)(1) of the Commission's regulations, 18 C.F.R. § 35.13(a)(1), a proposed Administrative Charge, a formula rate to collect the costs of developing and operating the PX.

As provided in the Commission's December 18, 1996 order, the PX will operate a power exchange that will be the mandatory trading institution for SoCal Edison, PG&E, and San Diego Gas & Electric Company (SDG&E) (collectively the California IOUs), and will perform market monitoring functions that are required by various regulatory agencies. The PX proposes to assess the California IOUs a lump-sum charge to recover its start-up and development costs, which it estimates to be about \$85 million, and an annual administrative charge to recover its operating expenses, which it estimates to be about \$52 million/year. To the extent other utilities make purchases through the PX, they

1/ The ISO Controlled Grid consists of the system of transmission lines and associated facilities of the Participating Transmission Owners that have been placed under the ISO's operational control. See ISO's August 15, 1997 filing in Docket Nos. EC96-19-003 and ER96-1663-003, Master Definitions Supplement.

would be charged an administrative fee generally designed on the same basis as assessed to the California IOUs, and the revenues from these additional administrative fees would be treated as revenue credits in developing the administrative fee for the California IOUs.

In addition, the PX states that it may offer additional "products" and asks that it be allowed to charge market-based rates for these products. The PX contends that these products will be in the nature of brokering services and, therefore, should not be viewed as jurisdictional services by the Commission. The PX states that, even if these services were viewed as jurisdictional, it has no market power with respect to these types of services. The PX is willing to make filings with the Commission (1) detailing the products and maximum prices that it intends to charge for each type of product (to be filed within 30 days of the date of offering the product), (2) reporting actual transaction data (to be filed quarterly), (3) informing the Commission of any change in its own situation or in the market which it operates, and (4) providing a market analysis every three years. The PX states that it will treat all revenues from these new products as revenue credits in developing the administrative fee assessed to the California IOUs.

The PX states that it will charge a \$1,000 fee to process each application to participate in the PX and nominal charges for terminals to access the PX's trade application software of \$1,000 for the first terminal and \$500 for each additional terminal.

The PX requests an effective date of January 1, 1998, consistent with its proposal to implement the restructuring of the California Electricity Market on that date.

C. SoCal Edison Filing in Docket No. ER98-462-000

On October 31, 1997, SoCal Edison tendered for filing in Docket No. ER98-462-000 amendments to its existing wholesale contracts in order to pass through to its wholesale customers costs for scheduling and dispatching services. SoCal Edison asserts that these revisions are necessary to pass through to each wholesale customer its proportionate share of the ISO GMC and the PX full requirements Volumetric Administrative Charge assessed to SoCal Edison by the ISO and PX. 1/ In addition, SoCal

3/ SoCal Edison requests that the Commission omit the designations for its agreements with the City of Vernon,

Edison proposes to pass through a charge of \$75 per day for its own scheduling and dispatching. SoCal Edison requests an effective date of January 1, 1998.

D. PG&E Filing in Docket Nos. ER98-556-000 and 557-000

On October 31, 1997, PG&E tendered for filing in Docket No. ER98-556-000 a formula rate to recover from its existing wholesale transmission customers and the Bay Area Rapid Transit District (BART) a portion of the GMC. Also on October 31, PG&E tendered for filing in Docket No. ER98-557-000 a formula rate to recover from its existing wholesale transmission customers a portion of the PX Administrative Charge. PG&E requests that its filings become effective on the date that the ISO tariff becomes effective.

Motions to Intervene and Protests

A. ISO and PX Filings

Notice of the ISO's filing was published in the Federal Register, 62 Fed. Reg. 55,803 (1997), with motions to intervene or protests due by November 7, 1997. Notice of the PX's filing was published in the Federal Register, 62 Fed. Reg. 55,803 (1997), with motions to intervene or protests due by November 7, 1997. Numerous intervenors filed notices of intervention, timely motions to intervene, protests, and requests for hearings and consolidation, in Docket Nos. ER98-211-000 and ER98-210-000, as listed in Appendix A. A number of intervenors filed motions to intervene out of time in these proceedings, as listed in Appendix B.

In addition, on November 24, 1997, the PX filed a Motion to File and Answer to the Motions to Intervene and Protests in Docket No. ER98-210-000. Also on November 24, 1997, the ISO filed a Motion to File and Answer to the Motions to Intervene and Protests in Docket No. ER98-211-000.

On November 25, 1997, the California Manufacturers Association, California Industrial Users, California Large Energy Consumers Association, and the California Farm Bureau Federation (California Customers) filed an Answer in opposition to the late

(California Commission) filed supplemental comments in Docket No. ER98-210-000 supporting the PX's request for approval of its one-time charge to recover start-up and development costs.

On December 8, 1997, the PX filed a Motion to Lodge a recent decision of the California Commission which it states is relevant to certain issues in its filing. According to the PX, the California Commission's decision in that proceeding finds, among other things, that if "costs are properly classified as the cost of programs to accommodate implementation of the PX and the ISO, and FERC authorizes the recovery of such costs in FERC rates, then these costs are eligible for § 376 treatment." 1/

On December 9, 1997 the California Customers filed an Answer opposing the PX's Motion to file an Answer to the motions to intervene and protests.

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1996), the notices of intervention and the timely, unopposed motions to intervene listed in Appendix A serve to make them parties to the proceeding(s) in which they sought intervention. In addition, the Commission will allow the late filed motions to intervene listed in Appendix B. Given the early stage of the proceeding and the Commission's determination to establish hearing procedures in these proceedings, no party will be prejudiced by allowing the late motions to intervene.

We will accept the ISO's Motion to file an Answer only to the extent that it seeks to amend its proposal in response to the protests. Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 1/ we will reject the ISO's November 24, 1997, Answer and the PX's November 24, 1997 Answer to the extent that they represent impermissible answers to protests. In addition, we will accept the PX's Motion to Lodge.

B. SoCal Edison and PG&E Filings

4/ See Joint Application of Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company for Ex Parte Interim Approval of a Loan Guarantee and Trust Mechanism to Fund the Development of an Independent System Operator (ISO) and Power Exchange (PX)

Notice of SoCal Edison's filing in Docket No. ER98-462-000 was published in the Federal Register, 62 Fed. Reg. 63,324 (1997), with motions to intervene or protests due by December 4, 1997. Notice of the PG&E's filings in Docket Nos. ER98-556-000 and ER98-557-000 was published in the Federal Register, 62 Fed. Reg. 63,327 (1997), with motions to intervene or protests due by December 4, 1997. Numerous intervenors filed notices of intervention, timely motions to intervene, protests, and requests for rejection of the filings, consolidation, and hearings in Docket Nos. ER98-462-000 and ER98-556-000, and ER98-557-000, as listed in Appendix C. On December 5, 1997, Lassen Municipal Utility District filed a motion to intervene out of time in Docket Nos. ER98-556-000 and ER98-557-000.

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1997), the notices of intervention and the timely, unopposed motions to intervene listed in Appendix C serve to make them parties to this proceeding. In addition, the Commission will allow the late filed motions to intervene filed by Lassen. Given the early stage of the proceeding and the Commission's determination to establish hearing procedures in these proceedings, no party will be prejudiced by allowing the late motions to intervene.

In addition, on December 12, 1997, SoCal Edison filed a response to the motions to intervene and motions to reject filed by certain intervenors. Also on December 12, 1997, PG&E filed a Motion for Leave to File Answer and Answer to Interventions and Protests in Docket Nos. ER98-556-000 and ER98-557-000. Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 1/ we will reject SoCal Edison's and PG&E's answers to the extent they represent impermissible answers to protests.

Discussion

A. ISO Filing in Docket No. ER98-211-000

Intervenors in Docket No. ER98-211-000 claim that many aspects of the ISO's filing will produce excessive charges as a result of improper budget contingencies and unsupported cost estimates and allocations, and that the ISO's proposal is anticompetitive. In addition, intervenors claim that the certain market transactions (including transactions under Existing Contracts and transactions which do not involve transmission over the ISO Controlled Grid), should be exempt from payment of the GMC. Intervenors request that the Commission suspend the

filings, subject to refund, consolidate the ISO's filing with the PX's filing in Docket No. ER98-210-000 and set them for hearing.

On November 24, 1997, the ISO revised its position to apply the GMC to Existing Contracts on a uniform "net" basis, rather than attempting to construe varying existing contracts.

Our preliminary analysis of the ISO's filing, as revised, indicates that the proposed rates 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 the proposed rates for filing, suspend them for a nominal period, subject to refund, and set them for hearing, as ordered below.

B. PX Filing in Docket No. ER98-210-000

Intervenors in Docket No. ER98-210-000 claim that many aspects of the PX's filing will produce excessive charges as a result of improper budget contingencies and unsupported cost estimates and allocations, and that the PX's proposal is anticompetitive. In addition, some intervenors oppose the PX proposal to charge market-based rates for certain products. Intervenors request that the Commission suspend the filings, subject to refund, consolidate the ISO's filing with the PX's filing in Docket No. ER98-210-000 and set them for hearing.

We will reject the PX's request that the Commission approve market-based rates for as yet undeveloped and undefined products and services that may or may not invoke the Commission's jurisdiction. However, we reject the market-based rate proposal without prejudice to the PX filing specific proposals for market-based rates or requests for jurisdictional determinations in the future as these proposals are developed.

As to other issues in the PX filing, our preliminary analysis of the filing indicates that the proposed rates 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 the proposed rates for filing, suspend them for a nominal period, subject to refund, and set them for hearing, as ordered below.

proceedings include numerous cost elements that the ISO and PX Trustee as well as the California IOUs incurred for the development of both entities. Among other things, the appropriate level of these costs as well as their allocation between the ISO and PX, raise material issues of fact would best be addressed in a single forum.

We encourage the parties, with the assistance of trial staff, to pursue settlement discussions with the hope that this proceeding will benefit from the collaborative process that has characterized the development of the California restructuring proposals to date and result in a settlement of the issues.

D. SoCal Edison Filing in Docket No. ER98-462-000

Intervenors in Docket No. ER98-462-000 claim, among other things, that the claimed charges are applied inappropriately to certain schedules, that the proposed rates may result in double billing for services, and that the proposal results in unfair cost shifts.

Our preliminary analysis of the SoCal Edison's filing indicates that the proposed rates 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 the proposed rates for filing, suspend them for a nominal period, subject to refund, and set them for hearing, as ordered below.

E. PG&E Filings in Docket Nos. ER98-556-000 and ER98-557-000

Intervenors in Docket Nos. ER98-556-000 and ER98-557-000 claim, among other things, that PG&E's proposed rates abrogate existing contracts, that the filings are unsupported, that the proposals result in unfair cost shifts and do not reflect cost causation principles, that PG&E should not receive revenues for services it no longer provides, that the proposed rates would apply to customers that do not utilize the underlying services, and that the two PG&E pass through filings should be consolidated.

Our preliminary analysis of the PG&E's filings indicates that the proposed rates 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 the proposed rates for filing, suspend them for a nominal period, subject to refund, and set them for hearing, as ordered below.

In this order we are setting for hearing five filings. In addition, in separate orders, the Commission is also setting for hearing several other filings by the ISO, the California Power Exchange Corporation, PG&E, SoCal Edison, and San Diego Gas & Electric Company. In view of that, we believe that the establishment of a procedural framework for the hearings ordered

The Commission orders:

(A) The ISO's proposed rates are hereby accepted for filing and suspended for a nominal period, to become effective on the date that ISO operations commence, subject to refund, as discussed in the body of this order.

(B) The PX's proposed rates are hereby accepted for filing and suspended for a nominal period, to become effective on the date that PX operations commence, subject to refund, as discussed in the body of this order.

(C) SoCal Edison's proposed rates are hereby accepted for filing and suspended for a nominal period, to become effective on the date that ISO and PX operations commence, subject to refund, as discussed in the body of this order.

(D) PG&E's proposed rates in Docket No. ER98-556-000 are hereby accepted for filing and suspended for a nominal period, to become effective on the date that ISO and PX operations commence, subject to refund, as discussed in the body of this order.

(E) PG&E's proposed rates in Docket No. ER98-557-000 are hereby accepted for filing and suspended for a nominal period, to become effective on the date that ISO and PX operations commence, subject to refund, as discussed in the body of this order.

(F) The notices of intervention and timely and late filed motions to intervene set forth in Appendices A, B, and C are hereby granted.

(G) The Answer of California Customers urging rejection of TURN's late filed Motion to Intervene and Comments is hereby denied.

(H) The ISO's and PX's Motions to File Answers are rejected except as discussed in the body of this order. SoCal Edison's Answer and PG&E's Motion to File Answer are rejected except as discussed in the body of this order.

(I) The motions to consolidate Docket Nos. ER98-210-000 and ER98-211-000 are hereby granted.

(J) The PX's Motion to Lodge is hereby granted.

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), a public hearing shall be held concerning the justness and reasonableness of the ISO's and PX's proposed rates, as discussed in the body of this order.

(L) 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 hearings shall be held concerning the justness and reasonableness of SoCal Edison's and PG&E's proposed rates, as discussed in the body of this order.

(M) The Chief Administrative Law Judge shall convene a prehearing conference to be held within approximately thirty (30) days after the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Such conference shall be held for the purpose of determining the appropriate course of these proceedings and establishing procedural dates as appropriate, and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Lois D. Cashell,
Secretary.

APPENDIX A

**Timely Notices of Intervention,
Motions to Intervene and Protests**

California Power Exchange Corporation

Docket No. ER98-210-000

Amoco Production Company
Arizona Electric Power Cooperative
Automated Power Exchange, Inc.
Automated Power Exchange, Avista Energy, Eastern Pacific Energy,
Electric Clearinghouse, Inc., Enron Power Marketing, Inc.,
Illinova Energy Partners, Inc. New Energy Ventures, and
California Retailers Assn.
Bonneville Power Administration
California Department of Water Resources
California Electricity Oversight Board
California Energy Commission
California Manufacturers Association, California Industrial
Users, California Large Energy Consumers Association, and
the California Farm Bureau Federation
California Municipal Utilities Association
California Independent System Operator Corporation
Cities of Anaheim, Azusa, Banning, Colton and Riverside,
California
City and County of San Francisco
City of Redding, California
City of Santa Clara, California
Cogeneration Association of California
Energy Producers and Users Coalition
Imperial Irrigation District
Lassen Municipal Utility District
Los Angeles Department of Water and Power
M-S-R Public Power Agency
Metropolitan Water District of Southern California
Modesto Irrigation District
New York Mercantile Exchange
Northern California Power Agency
Public Utilities Commission of the State of California
Pacific Gas and Electric Company
Sacramento Municipal Utility District
San Diego Gas and Electric Company

APPENDIX A

California Independent System Operator Corporation

Docket No. ER98-211-000

Amoco Production Company
Arizona Electric Power Cooperative
Automated Power Exchange, Avista Energy, Eastern Pacific Energy,
Electric Clearinghouse, Inc., Enron Power Marketing, Inc.,
Illinova Energy Partners, Inc. New Energy Ventures, and
California Retailers Association
Bonneville Power Administration
California Department of Water Resources
California Electricity Oversight Board
California Energy Commission
California Manufacturers Association, California Industrial
Users, California Large Energy Consumers Association, and
the California Farm Bureau Federation
California Municipal Utilities Association
California Power Exchange Corporation
Cities of Anaheim, Azusa, Banning, Colton and Riverside,
California
City and County of San Francisco
City of Redding, California
City of Santa Clara, California
Cogeneration Association of California
Energy Producers and Users Coalition
Imperial Irrigation District
Lassen Municipal Utility District
Los Angeles Department of Water and Power
M-S-R Public Power Agency
Metropolitan Water District of Southern California
Modesto Irrigation District
New York Mercantile Exchange
Nichols Consulting
Northern California Power Agency
Public Utilities Commission of the State of California
Pacific Gas and Electric Company
Sacramento Municipal Utility District
San Diego Gas and Electric Company
Southern California Edison Company
Transmission Agency of Northern California
Texaco Natural Gas, Inc.
Turlock Irrigation District

APPENDIX B
Motions to Intervene Out of Time

California Power Exchange Corporation
Docket No. ER98-210-000

City of Pasadena, California
City of Vernon, California
Duke Energy Trading and Marketing, L.L.C.
Independent Energy Producers Association
Member Systems of the New York Power Pool
Nevada Power Company
Northern Arapaho Tribe
NutraSweet Kelco Company
PG&E Energy Services Corporation
Western Area Power Administration
Utility Reform Network

California Independent System Operator Corporation
Docket No. ER98-211-000

City of Vernon, California
Duke Energy Trading and Marketing, L.L.C.
Independent Energy Producers Association
Member Systems of the New York Power Pool
Nevada Power Company
Northern Arapaho Tribe
NutraSweet Kelco Company
PG&E Energy Services Corporation
Western Area Power Administration
Utility Reform Network

APPENDIX C

**Timely Notices of Intervention,
Motions to Intervene and Protests**

Southern California Edison Company

Docket No. ER98-462-000

California Municipal Utilities Association
California Department of Water Resources
Cities of Anaheim, Azusa, Banning, Colton and Riverside,
California
Enron Power Marketing, Inc.
Los Angeles Department of Water and Power
M-S-R Public Power Agency, the City of Redding, California and
the City of Santa Clara, California
Metropolitan Water District of Southern California
Modesto Irrigation District
PacifiCorp
Transmission Agency of Northern California
Western Area Power Administration

Pacific Gas & Electric Company

Docket No. ER98-556-000

Amoco Production Company and Amoco Energy Trading Corporation
California Department of Water Resources
California Municipal Utilities Association
California Manufacturers Association and the California Large
Energy Consumers Association
City and County of San Francisco
Cogeneration Association of California
Destec Power Services, Inc.
Energy Producers and Users Coalition
Enron Power Marketing, Inc.
Lassen Municipal Utility District *
M-S-R Public Power Agency, the City of Redding, California and
the City of Santa Clara, California
Member Systems of the New York Power Pool
Metropolitan Water District of Southern California
Modesto Irrigation District
Northern California Power Agency

Transmission Agency of Northern California
Turlock Irrigation District
Western Area Power Administration

APPENDIX C

Pacific Gas & Electric Company

Docket No. ER98-557-000

Amoco Production Company and Amoco Energy Trading Corporation
California Department of Water Resources
California Manufacturers Association and the California Large
Energy Consumers Association
California Municipal Utilities Association
City and County of San Francisco
Cogeneration Association of California
Destec Power Services, Inc.
Energy Producers and Users Coalition
Enron Power Marketing, Inc.
Lassen Municipal Utility District *
M-S-R Public Power Agency, the City of Redding, California and
the City of Santa Clara, California
Metropolitan Water District of Southern California
Modesto Irrigation District
Northern California Power Agency
Public Utilities Commission of the State of California
Sacramento Municipal Utility District
Southern California Edison Company
Texaco Natural Gas, Inc.
Transmission Agency of Northern California
Turlock Irrigation District
Western Area Power Administration

* Filed a motion to intervene out of time.