

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

102 FERC ¶ 61,103

January 31, 2003

In Reply Refer to:  
Dockets Nos. ER97-2358 and  
ER98-2351 (consolidated)

Attorney for Pacific Gas and Electric Company

Attn: Kelly M. Morton, Esq.  
77 Beale Street  
Post Office Box 7442  
San Francisco, California 94120

Dear Ms. Morton:

1. On April 14, 1999, Pacific Gas and Electric Company (PG&E) filed an Offer of Settlement (Settlement) with all interested parties which would require PG&E to include the proposed regional/local rate methodology in each subsequent Transmission Owner (TO) rate case filing that occurs prior to conclusion of the California AB 1890 stakeholder process that is required by California law.
2. On March 31, 1997, PG&E filed its first TO rate case in Docket No. ER97-2358-000 (TO1). On December 17, 1997, the Commission accepted PG&E's proposed tariff rates for filing, effective March 31, 1998, subject to refund, suspended them and set them for hearing.<sup>1</sup> On March 30, 1998, PG&E filed its second TO rate case in Docket No. ER98-2351-000 (TO2). On May 28, 1998, the Commission accepted PG&E's proposed tariff rates for filing, effective October 30, 1998, subject to refund, suspended them, set them for hearing, and consolidated the case with the TO1 docket.<sup>2</sup>
3. Initial comments in support of the Settlement were filed by the California Department of Water Resources, the Public Utilities Commission of the State of California, the Northern California Power Agency (NCPA), and Commission Trial Staff. A comment in partial opposition to modify section 3.4 of the Settlement was filed by

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<sup>1</sup>See Pacific Gas and Electric Company, et al. 81 FERC ¶ 61,323 (1997) (December 17, 1997 Order).

<sup>2</sup>See Pacific Gas and Electric Company, et al., 83 FERC ¶ 61,212 (1998) (May 28, 1998 Order).

Enron Power Marketing Inc. (Enron). Reply comments in support of the Settlement and in opposition to Enron's requested modification of the Settlement were filed by PG&E, NCPA, and jointly by the Cities of Redding and Santa Clara, California, the M-S-R Public Power Agency, the Transmission Agency of Northern California, the Modesto Irrigation District (collectively Cities), and Commission Trial Staff.

4. The administrative law judge (ALJ) ruled that Enron's contest of, partial opposition to, and request to modify section 3.4 of the Settlement neither claims, raises, nor justifies a genuine issue of material fact. Rather, the ALJ stated that Enron raised an issue of policy or law or both which does not bar certification of the Settlement. In these circumstances, the ALJ concluded that the Settlement is contested only as concerns an issue of policy or law or both, thus, Enron's requested modification of the Settlement was not a bar to certification of the Settlement under 18 C.F.R. §385.602. The ALJ stated that the approval of the Settlement would resolve all stipulated issues and permit termination of these proceedings. In any event, Enron's opposition focused solely on its concern that the Settlement not prohibit Enron from challenging PG&E's rate methodology in future rate proceedings, namely the TO3 and TO4 proceedings. TO3 and TO4 were PG&E's successor TO rate cases to TO1 and TO2. Both TO3 and TO4 have since been either settled or adjudicated. Thus, the requested modification is moot.

5. The subject Settlement is fair and reasonable, in the public interest, and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms, and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e (1994).

6. Because the Settlement rates are lower than the originally filed and Commission accepted rates in TO1 and TO2, refund obligations to all applicable customers have accrued and still continue to accrue over the last four and one half years. As of October 1, 2002, nearly \$30 million of refunds have accrued of which over \$6 million is in interest alone.

7. Within thirty (30) days from the date of this letter, refund obligations to all applicable customers shall be refunded together with interest computed under section 35.19 of the Commission's regulations, 18 C.F.R. § 35.19a (2000). Within fifteen (15) days after making such refunds, PG&E shall file with the Commission a refund report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary of such information for the total refund period.

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PG&E shall furnish copies of the report to the affected customers and each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

8. This letter terminates Docket Nos. ER97-2358 and ER98-2351 (consolidated).

By direction of the Commission.

Magalie R. Salas,  
Secretary.

cc: All Parties