

97 FERC ¶ 61,335

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pacific Gas & Electric Company

Docket No. ER01-1639-003

ORDER DENYING REHEARING

(Issued December 21, 2001)

This case is before the Commission on a request for rehearing by Pacific Gas and Electric Company (PG&E) of an order issued in this proceeding on October 24, 2001, Pacific Gas & Electric Co., 97 FERC ¶ 61,082 (2001) (October Order). That order largely affirmed the reasoning and findings of an initial decision issued September 21, 2001, Pacific Gas & Electric Co., 96 FERC ¶ 63,043 (2001), which concluded that the Mobile-Sierra doctrine barred PG&E from making its Federal Power Act (FPA) section 205 rate filing. We deny PG&E's request for rehearing.

Background

At issue are proposed amendments filed by Pacific Gas and Electric (PG&E) to Contract No. 14-06-200-2948A (Contract 2948A),¹ which is a long-standing agreement with Western Area Power Administration (Western). Contract 2948A governs the interconnection of PG&E's and Western's transmission and distribution systems and the integration of their loads and resources.

On March 29, 2001, PG&E filed under FPA section 205, 16 U.S.C. § 824d (1994), proposed amendments to Contract 2948A and other related agreements. PG&E sought Commission approval to amend Contract 2948A to recover additional costs

¹The parties entered into the original Contract 2948A in 1967. There have been three subsequent modifications. The three modifications are: (1) the 1995 Letter of Agreement, dated July 31, 1995; (2) the PDC Settlement Agreement, dated December 31, 1992; and (3) the Energy Account No. 2 and Capacity Account Repurchase Rate Agreement – the February 7, 1992 Letter Agreement (1992 Letter Agreement).

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associated with energy purchases and other obligations, and to update the transmission rates to reflect current revenue requirements.

In its order establishing a hearing, Pacific Gas & Electric Co., 95 FERC ¶ 61,273, reh'g denied, 96 FERC ¶ 61,102 (2001), the Commission left it to the presiding judge to determine how best to structure the hearing. The presiding judge phased the hearing and, on September 21, 2001, issued a partial initial decision on the Mobile-Sierra issue. The presiding judge determined that PG&E lacks the contractual right to make this section 205 filing under Contract 2948A or under the 1992 Letter Agreement; the section 205 filing made by PG&E exceeds the section 205 rights granted in the applicable provisions of Contract 2948A and the 1992 Letter Agreement. As a result, the presiding judge found that PG&E had violated the Mobile-Sierra doctrine. The October Order largely affirmed the reasoning and findings in the initial decision; PG&E was not permitted under the Mobile-Sierra doctrine to make the filing at issue. See 97 FERC at 61,397.

Discussion

In the October Order, the Commission found that the initial decision properly and persuasively resolved the Mobile-Sierra issue. The Commission rejected the arguments to the contrary presented in PG&E's briefs.

On rehearing, PG&E presents the same arguments it offered in its brief on exceptions. PG&E presents nothing new that would cause us to reach a different conclusion than that found in our October Order. Accordingly, we will deny rehearing.

The Commission orders:

PG&E's request for rehearing is hereby denied.

By the Commission.

(S E A L)


Linwood A. Watson, Jr.
Acting Secretary.

