

97 FERC - 61, 291
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 and Electric Company
Docket No. ER02-208-000

ORDER CONDITIONALLY ACCEPTING
REVISED RATE SHEETS

(Issued December 19, 2001)

In this order, we conditionally accept and nominally suspend Pacific Gas and Electric Company's (PG&E) revised tariff sheets that were filed on October 30, 2001 to update its Reliability Must-Run Agreements (RMR Agreements) with the California Independent System Operator Corporation (California ISO), subject to the outcome of the proceeding in Docket No. ER02-11-000 and subject to refund. This order is in the public interest, because it benefits customers by allowing PG&E to continue providing must-run generation to the California ISO and, at the same time, affords the parties time to resolve potential issues regarding this matter.

Background

PG&E and other power plant owners in California provide Reliability Must-Run service (RMR service) to the California ISO by dispatching designated units at certain power plants at the direction of the California ISO. This dispatch is provided under individual RMR Agreements that follow a generic, standard-form RMR Agreement that was agreed to as part of a settlement approved in California Independent System Operator Corporation, et al., 87 FERC - 61,250 (1999). Under the terms of the settlement, each RMR owner files annual updates to the RMR Agreements. The RMR Agreement provides the rates, term, and conditions for RMR service.

On October 31, 2001, PG&E filed proposed annual revisions to their RMR Agreements for the Helms, Humboldt Bay, Hunters Point, and San Joaquin Power Plants. These proposed revisions reflect, among other things: (1) updated contract service limits found in Schedule A; (2) owner's repair cost obligations found in Schedule B; (3) revised start-up costs found in Schedule D; and (4) ministerial changes in personnel notice information found in Schedule J. In addition, PG&E also updated its annual fixed revenue requirement (AFRR) and the variable operation and

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maintenance (VOM) rates found in Schedule B. PG&E requests that these revisions be accepted for filing effective January 1, 2002. PG&E notes on its transmittal letter, which is attached to its filing, that the revised AFRR values and VOM rates are identical to those currently pending in Docket No. ER02-11-000. As required by Schedule F of the RMR Agreements, PG&E submitted its proposed updates for the Year 2002 AFRR values and VOM rates in Docket No. ER02-11-000.

Notice and Pleadings

Notice of PG&E's October 31, 2001 filing was published in the Federal Register, 66 Fed. Reg. 56,817 (2001), with comments, protests or interventions due on, or before November 21, 2001. Timely, unopposed motions to intervene and protest were filed by California ISO, California Electricity Oversight Board (California EOB), and the Public Utilities Commission of the State of California (California PUC).

The California PUC, the California EOB, and the California ISO urge the Commission to sever either the proposed AFRR values or VOM rates, or both, from this docket and consolidate them with the Commission's consideration of PG&E's Schedule F filing in Docket No. ER02-11-000. The California ISO protests the inclusion of the Schedule F AFRR values and VOM rates in this docket. They argue that, as required by the Schedule F of the RMR Agreement, AFRR values and VOM rates were submitted to the Commission in Docket No. ER02-11-000.

The California PUC and the California EOB state that they have significant substantive concerns about the data set forth in PG&E's Schedule F filing. They also state that the issues in this docket should have been expected to present routine annual updates of such matters as contract service limits and repair cost obligations. In addition, the California PUC and the California EOB claim that, as compared to the current values, the AFRR has increased 61% for one facility and 64% for another. They are also concerned that the Commission could summarily approve the Schedule F filing without the California PUC and the California EOB's participation.

The California ISO further protests certain revisions to the operating data and rates included in the RMR Agreements. The California ISO states that it has identified what it believes to be a number of calculation errors and elevated outage figures

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See 87 FERC at 61,250. This is the first year that annual updates include any changes to the AFRR values and VOM rates. Pursuant to the RMR Agreement the AFRR values and the VOM rates have been subject to a rate freeze that expires December 31, 2001.

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that would inappropriately increase rates to end-use customers. The California ISO states that it intends to discuss these errors and figures with PG&E and commits to updating the Commission by December 21, 2001, as to whether their concerns have been addressed, and therefore they will withdraw their protest.

On December 10, 2001, the City and County of San Francisco (City of San Francisco) filed a motion to intervene out-of-time in this proceeding.

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.214 (2001), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Given the early stage of this proceeding and the absence of undue delay or prejudice, we find good cause to grant the untimely, unopposed intervention of City of San Francisco.

B. Docket No. ER02-208-000

The protests urge the Commission not to accept PG&E's revised AFRR values and VOM rates contained in Schedule B, because the same issue is pending in Docket No. ER02-11-000. Additionally, they argue that the parties would have to litigate these issues twice if the Commission were to consider the justness and reasonableness of the AFRR values and VOM rates in the instant docket.

The Commission agrees that it is inefficient and unnecessary to consider the issues more than once. In addition, we find that the proposed tariff revisions have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We will, therefore, accept and nominally suspend PG&E's proposed revisions to the RMR Agreement, subject to the outcome of the proceeding in

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Docket No. ER02-11-000 and subject to refund, effective January 1, 2002.

The Commission orders:

(A) The Commission hereby conditionally accepts and nominally suspends the revised tariff sheets, subject to the outcome of the proceeding in Docket No. ER02-11-000 and subject to refund, effective January 1, 2002.

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In Docket No. ER02-11-000, the comment period expires December 14, 2001. The case is under currently under review.

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(B) PG&E's rate schedule designations are accepted as filed.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Acting Secretary.

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