

111 FERC ¶ 61,125
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

California Independent System Operator Corporation	Docket Nos. ER04-115-002 ER04-115-003 EL04-47-002 EL04-47-003 ER05-346-001
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Pacific Gas and Electric Company	Docket Nos. ER04-242-001 EL04-50-001 ER05-367-001
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ORDER GRANTING REHEARING AND MOTION FOR CLARIFICATION
AND ESTABLISHING HEARING PROCEDURES

(Issued April 27, 2005)

1. On February 2, 2005, the Commission issued an Order Approving Partial Uncontested Settlement and Terminating Related Dockets.¹ On March 3, 2005, San Diego Gas & Electric Company (SDG&E) filed a timely request for rehearing of the February 2 Order, and on March 4, 2005, Pacific Gas & Electric Company (PG&E) filed a motion for clarification of that order. As discussed below, the Commission grants both the request for rehearing and the motion for clarification, and institutes hearing procedures. This order benefits customers by establishing procedures to determine the appropriate application by the California Independent System Operator Corporation (CAISO) of its Grid Management Charge (GMC), and clarifying the list of customers who must pay that charge.

Background

2. On July 29, 2004, the CAISO and PG&E filed an offer of partial settlement that resolved all issues pertaining to the CAISO's 2004 GMC filing in Docket No. ER04-115-000, *et al.*, and PG&E's related 2004 GMC Pass-Through Tariff filing in Docket No.

¹ *California Independent System Operator Corp.*, 110 FERC ¶ 61,090 (2005) (February 2 Order).

ER04-242-000, *et al.*, with the exception of one reserved issue (2004 Settlement). Apart from this reserved issue, the 2004 Settlement resolved complex issues concerning allocation of the costs of administering and operating the CAISO controlled grid and provided for increased stakeholder involvement in the CAISO's budget process. The parties' reserved issue concerned SDG&E's objection to the application of the GMC charges to Energy Schedules of the Arizona Public Service Company and the Imperial Irrigation District on their respective shares of the Southwest Power Link. Article V of the 2004 Settlement carved out the reserved issue from the settlement, and provided for the CAISO, SDG&E and any party before the Commission to make arguments on this issue before the Commission, and for the Commission to resolve this issue.

3. On August 23, 2004, the Presiding Judge declined to certify the 2004 Settlement due to the outstanding reserved issue,² and, on August 24, 2004, the Chief Judge terminated the settlement judge procedures. On December 15, 2004, in Docket No. ER05-346-000, the CAISO submitted a conditional filing to implement revised GMC rates for 2005 (2005 GMC Filing), in the event the Commission did not accept the 2004 Settlement. The CAISO urged the Commission to approve the 2004 Settlement and, thereafter, deem the 2005 GMC Filing withdrawn.³ On December 22, 2004, in Docket No. ER05-367-000, PG&E filed revisions to its Pass-Through Tariff to align its Pass-Through Tariff rates with the CAISO's 2005 GMC Filing (2005 PTT Filing).

4. The February 2 Order approved the 2004 Settlement as in the public interest and accepted the CAISO's and PG&E's tariff revisions, effective January 1, 2004.⁴ The February 2 Order explained that approval of the 2004 Settlement rendered moot the CAISO's 2005 GMC filing in Docket No. ER05-346-000 and, per the CAISO's request, the Commission treated the 2005 GMC filing as withdrawn.⁵ In addition, the Commission also dismissed as moot the 2005 PTT Filing because PG&E had made this filing to conform to the CAISO's 2005 GMC filing.⁶ The February 2 Order terminated Docket Nos. ER05-346-000, ER05-367-000, ER04-115-000, EL04-47-000, ER04-242-000 and EL04-50-000 for all parties and issues, except for the issue reserved via

² See "Status Report on Offer of Partial Settlement," *California Independent System Operator Corp.*, 108 FERC ¶ 63,025 at P 1 (2004) (citing *Cities of Anaheim*, 101 FERC ¶ 61,392 (2002)).

³ See Docket No. ER05-346-000, Transmittal Letter at 1–2.

⁴ February 2 Order at P 11.

⁵ *Id.* at P 12.

⁶ *Id.*

Article V of the 2004 Settlement, which the Commission understood to be currently under review in Docket No. EL04-24-000.⁷

SDG&E's Request for Rehearing

5. On rehearing, SDG&E asserts that the Commission erred by finding that the reserved issue is pending before the Commission in another proceeding, Docket No. EL04-24-000. SDG&E argues that Docket No. EL04-24-000 concerns the CAISO's appeal of an arbitration award in favor of SDG&E, which, according to SDG&E, does not involve the GMC, but rather, transmission losses. SDG&E states that the issue resolved via arbitration was whether the CAISO could, under the CAISO tariff, assess transmission losses to energy schedules on certain ownership shares of Southwest Powerlink. SDG&E claimed that the CAISO had improperly billed SDG&E for such losses from the commencement of the CAISO's operations in April 1998. SDG&E states that, in contrast, Docket No. ER04-115-000 involves the GMC, *i.e.*, the rates to recoup the CAISO's administrative costs incurred in operating the CAISO controlled grid. SDG&E explains that Imbalance Energy, which may be procured to cover transmission losses under certain circumstances, is one of the eight types of charges or "buckets" of administrative costs that comprise the GMC. Consequently, SDG&E states that, if the Commission were to uphold the arbitrator's decision in the EL04-24-000, this would eliminate from the GMC billing determinant any Imbalance Energy procured to cover the Southwest Powerlink losses. However, SDG&E believes that this determination would not affect the other seven GMC components, nor would it resolve the broader question of whether the GMC as applied to these Southwest Powerlink schedules is just and reasonable.

6. SDG&E states that there is no proceeding before the Commission where this issue of the GMC as applied to Southwest Powerlink is pending. SDG&E argues that the February 2 Order deprives SDG&E of an opportunity to be heard on the very issue the order purports to reserve, thus exiling the reserved issue to a "procedural vacuum." SDG&E suggests the Commission remedy this result on rehearing by taking two actions: (1) rescinding the termination of Docket No. ER04-115-000; and (2) setting the issues reserved by Article V of the 2004 Settlement for further procedures, including providing for the appointment of an administrative law judge to convene a prehearing conference after the issuance of the rehearing order. In the alternative, SDG&E proposes that the Commission bifurcate the EL04-24-000 proceeding and allow an administrative law judge to decide the GMC issue, while the Commission rules on the pending appeal of the arbitration award, for which the record is already complete.

⁷ *Id.* at P 13.

PG&E's Motion for Clarification

7. PG&E states that the Commission correctly decided to dismiss PG&E's 2005 PTT Filing. However, PG&E seeks clarification that amendments included as part of its submittal are not dismissed. PG&E sought in the 2005 PTT Filing to amend Appendix A of the Pass-Through Tariff, which lists its Pass-Through Tariff customers. PG&E explains that the filed amendment, included as part of the 2005 PTT Filing, changes the reference to the Control Area Agreement for the Western Area Power Administration (Western) and removes the reference to PG&E Rate Schedule FERC No. 79, which has been cancelled. In addition, PG&E states that it explained in its December 24, 2004 transmittal letter that, in 2005, PG&E will act as the scheduling coordinator for Western loads and resources associated with PG&E Rate Schedule FERC Nos. 60 and 227 (the New Melones and San Luis Contracts). PG&E states that, upon Commission approval of the New Scheduling Coordinator Services Tariff in Docket No. ER05-229-000,⁸ PG&E will remove Western as a GMC Pass-Through Tariff customer in Appendix A of the Pass-Through Tariff. This will ensure that Western is only charged under one tariff for New Melones and San Luis loads.⁹

8. PG&E asks the Commission to clarify that PG&E's proposed amendments to Appendix A of the Pass-Through Tariff, filed in Docket No. ER05-367-000, are not dismissed. In support, PG&E states that no parties protested these amendments and that, until the Commission acts on PG&E's filing in Docket No. ER05-229-000, PG&E requires a recovery mechanism for these GMC costs. PG&E states that it includes as Attachment 1 to its motion a revised Appendix A to the Pass-Through Tariff, as filed in PG&E's 2005 PTT Filing. PG&E requests the Commission to clarify that the Appendix A tariff sheets of the 2005 PTT Filing supersede the Appendix A Pass-Through Tariff sheets included in the 2004 Pass-Through Tariff filing.

Commission Decision

9. The Commission will grant SDG&E's request for rehearing because we now find that, contrary to our understanding at the time we issued the February 2 Order, Docket No. EL04-24-000 does not encompass all of the issues carved out via Article V of the 2004 Settlement. Consequently, we will set for hearing in Docket Nos. ER04-115-003 and EL04-47-003 the issues stipulated in Article V of the 2004 Settlement.

⁸ In this proceeding, PG&E seeks recovery of certain CAISO charges that PG&E will incur as a scheduling coordinator for Western.

⁹ Motion at 2-3.

10. The Commission will also grant the clarification requested by PG&E and accept the revised Appendix A of the Pass-Through Tariff. We clarify that the Appendix A tariff sheets of the 2005 PTT Filing supersede the Appendix A tariff sheets included in the 2004 Pass-Through Tariff filing. This will ensure that the proper entities are charged under the Pass-Through Tariff. However, since the remainder of the filing in Docket No. ER05-367-000 is dismissed, the tariff sheet designations for the revised Appendix A do not match the currently effective Pass-Through Tariff. Specifically, the tariff sheets submitted in the filing are designated as Original Sheet Nos. 15-16 to FERC Electric Tariff, Fourth Revised Volume No. 11. Since the rest of the filing is dismissed, there is no Fourth Revised Volume. Accordingly, PG&E must file, within 15 days of the date of this order, the revised Appendix A, designated as First Revised Sheet No. 16-17 to FERC Electric Tariff, Third Revised Volume No. 11. In addition, PG&E must file an amended Appendix A to the Pass-Through Tariff within 30 days of removing Western as a GMC Pass-Through Tariff customer.

The Commission orders:

(A) The request for rehearing filed by SDG&E is hereby granted, as discussed in the body of this order.

(B) The motion for clarification filed by PG&E is hereby granted, as discussed in the body of this order.

(C) PG&E must file revised Appendix A to the Pass-Through Tariff within 15 days of the date of this order, as discussed in the body of this order.

(D) PG&E must file an amended Appendix A to the Pass-Through Tariff within 30 days of removing Western as a GMC Pass-Through Tariff customer.

(E) 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 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), a public hearing shall be held in Docket Nos. ER04-115-003 and EL04-47-003 to resolve the outstanding issues concerning the 2004 GMC, as discussed in the body of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in the proceeding, to be held within approximately 15 days of the designation of the presiding judge, in a hearing room of the Federal Energy Regulatory Commission, 888 First St., N.E., Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.