

137 FERC ¶ 61,193
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris, and
Cheryl A. LaFleur.

Pacific Gas and Electric Company

Docket No. ER12-73-000

ORDER ON ABANDONMENT COST RECOVERY FILING, AND ESTABLISHING
HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued December 12, 2011)

1. On October 13, 2011, Pacific Gas and Electric Company (PG&E) filed a request under section 205 of the Federal Power Act (FPA)¹ to recover the transmission investment incentive previously granted by the Commission for prudently-incurred abandonment costs associated with the Canada to North California transmission project (Project).² PG&E also proposes to revise sections 3.103 and 5.5 of its Transmission Owner (TO) Tariff to recover the proposed abandonment costs through a future Transmission Revenue Balancing Account Adjustment (TRBAA).³ In this order, we find that PG&E's Project was abandoned for reasons beyond its control and, therefore, we grant its request to recover the prudently-incurred project costs associated with the Project. However, we find that the instant filing does not contain sufficient information for the Commission to determine if the amount of abandonment costs was prudently-incurred. Accordingly, we conditionally accept the revised TO Tariff, suspend it, and place it into effect December 13, 2011, subject to refund and the outcome of the hearing and settlement judge procedures established herein.

¹ 16 U.S.C. § 824d (2006).

² *Pacific Gas and Electric Co.*, 123 FERC ¶ 61,067 (2008) (Incentives Order). (The Commission granted PG&E's request for recovery of 100 percent of prudently-incurred costs if the Project is abandoned for reasons beyond PG&E's control.).

³ In Docket No. ER12-76-000, PG&E filed the annual update to its TRBAA that includes these proposed abandonment costs.

I. Background

2. On December 21, 2007, PG&E filed a Petition for Declaratory Order (December 2007 Petition) seeking incentive rate treatment under Order No. 679⁴ for a proposed multi-party transmission Project that would deliver up to 3,000 MW of renewable power along a 1,000-mile transmission line from British Columbia, Canada to the Pacific Northwest and Northern California. In its filing, PG&E represented that upon completion, the Project would increase reliability in the region, reduce transmission congestion, and help load-serving entities in California meet their renewable portfolio standards (RPS).⁵ As the Project's lead sponsor, PG&E expected to assume about 60 percent, or approximately \$1.9 billion, of the Project's estimated \$3.2 billion costs, excluding upgrades to existing transmission systems.

3. PG&E argued that the multi-jurisdictional, multi-entity, and international nature of the Project required PG&E to undertake significant business, financial, regulatory, and political risks. To offset these special challenges and risks, PG&E requested a package of rate incentives, including the recovery of 100 percent of its prudently-incurred abandonment costs. PG&E explained that the abandonment incentive was necessary in order to allow its management to allocate the necessary resources for the Project and to facilitate ongoing development efforts with current and future project participants. PG&E also noted the Project's feasibility depended on renewable generation that had not yet been constructed. Lastly, PG&E identified eight circumstances that it asserted would be beyond its control and could result in the both the abandonment or cancellation of the Project and a subsequent request to recover 100 percent of the associated abandoned project costs.⁶

⁴ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stat. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

⁵ December 2007 Petition at 1-2.

⁶ PG&E lists the failure of anticipated incremental resources to develop in the Pacific Northwest and Canada; the cost of raw materials increasing substantially making the Project prohibitively expensive; the price of California's renewable resources decreasing significantly; the abandonment of the Project by its co-investors or other financial shock(s); and the discovery of new technology rendering the regional transport of renewable resources non cost-effective as unanticipated changes in circumstances beyond its control. Additionally, PG&E identifies the failure to obtain necessary regulatory approvals from all relevant entities; siting or environmental obstacles; and a change in California's RPS standards, disqualifying anticipated incremental resources in

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4. On April 21, 2008, the Commission granted, in part, PG&E's December 2007 Petition, allowing PG&E to recover prudently-incurred pre-commercial costs related to the Project and prudently-incurred abandonment costs if the Project was abandoned for reasons beyond PG&E's control. In granting these incentives, the Commission stated that PG&E had not shown that its proposed Project would improve reliability or reduce congestion, which Order No. 679 requires to warrant rate incentive treatment.⁷ Nevertheless, the Commission concluded that PG&E's Project supported significant policy objectives, including encouraging the development of multi-regional and multi-national transmission projects and encouraging companies to explore new ways of finding and delivering renewable resources.⁸ The Commission concluded that granting PG&E's request to recover prudently-incurred abandonment costs would allow PG&E to finance the Project and attract and maintain the co-sponsors necessary to assist in its development.⁹ However, the Commission clarified that should PG&E subsequently seek authorization from the Commission to recover the costs associated with its abandonment of the Project, PG&E would be required to submit a section 205 filing demonstrating that the Project was abandoned for reasons beyond PG&E's control, that the costs were prudently-incurred, and that the rates based on these costs were just and reasonable.¹⁰

II. PG&E Filing

5. PG&E submits testimony to demonstrate that abandonment of the Project was beyond its control; that the \$8.4 million in Project costs, incurred between December 2007 and May 2011, were prudently-incurred; that these costs have not been otherwise recovered as part of another California Public Utilities Commission (CPUC) or Commission-approved rate;¹¹ and the inclusion of the proposed Project costs in a future TRBAA will result in just and reasonable rates.¹²

the Pacific Northwest and Canada as regulatory obstacles beyond its control. *Id.* at 37 (Table 2).

⁷ Incentives Order, 123 FERC ¶ 61,067 at P 32.

⁸ *Id.* P 33.

⁹ The Commission deferred consideration of PG&E's other requested incentives until the Project was further developed. Incentives Order, 123 FERC ¶ 61,067 at P 33.

¹⁰ *Id.* P 36.

¹¹ PG&E Transmittal Letter at 4.

¹² *Id.* at 2.

6. PG&E asserts that the three factors leading to its abandonment of the entire Project were among the factors it identified in its December 2007 Petition¹³ and were cited by the Commission in its Incentives Order.¹⁴ First, PG&E explains that since the early stages of the Project's development, the interests and needs of the other Project participants changed and, in 2008, three of the initial participants in the Project dropped out,¹⁵ with PacifiCorp withdrawing from the Project's development agreement in 2009.¹⁶ In May 2011, PG&E and the remaining co-sponsors decided to allow the Project's development agreement to expire, leaving PG&E unwilling and incapable of pursuing the Project on its own. Second, PG&E states that it was unable to secure a timely power purchase agreement with BC Hydro, who was expected to firm and shape the out-of-state renewable resources using existing hydro storage capacity to deliver to PG&E on the proposed Project. In order to comply with its ongoing state RPS requirements, PG&E asserts that it was impelled to make other acquisitions of in-state renewable power, casting doubt on the long-term economic value of the Project. Ultimately, PG&E argues that the power purchase agreement prices BC Hydro offered in early 2011 were not competitive from a cost perspective compared to in-state renewables.¹⁷ Lastly, PG&E contends that recent California legislation requiring all California utilities to procure 33 percent of their electricity from renewables by 2020, with at least 75 percent of deliveries being from resources located in California, has made the procurement of out-of-state renewable resources significantly less attractive, thereby undercutting the original rationale for building the Project.¹⁸

¹³ *Id.* at 2-3.

¹⁴ *Id.* (citing the Incentives Order, 123 FERC ¶ 61,067 at P 11).

¹⁵ The initial participants in the Project were the Transmission Agency of Northern California (TANC), Sierra Pacific, PacifiCorp, and British Columbia Transmission Corporation (BCTC), all of which began working on the Project in 2006. Avista and Portland General Electric (PGE) joined the study group in 2007 but did not invest in the Project as participants.

¹⁶ The Project participants that signed the development agreement and thereafter contributed funding for the Project were PG&E, PacifiCorp, Avista, and BCTC.

¹⁷ PG&E Transmittal Letter at 2-3.

¹⁸ PG&E explains that California Senate Bill 2 (IX), signed on April 12, 2011, requires that California utilities procure 33 percent of their electricity from renewables by 2020, with at least 75 percent of deliveries from power purchase agreements executed

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7. Moreover, PG&E explains that all of the costs it seeks to recover were prudently-incurred and include expenses for environmental work, transmission planning and project development work. PG&E clarifies that the costs consist of both non-shared, PG&E-specific Project costs and PG&E's portion of the Project costs that were shared among the sponsors, based on its 63.25 percent interest in the Project.¹⁹

8. PG&E proposes to recover the \$8.4 million of abandonment costs in its 2012 TRBAA because the use of the TRBAA mechanism will allow PG&E to avoid over- or under-collection of the amount that the Commission ultimately approves. PG&E argues that it is reasonable to recover the \$8.4 million over a one-year period because it would be more administratively efficient than creating a new rate component. In addition, PG&E states that the recovery will have a *de minimis* impact on customers.²⁰ Further, in order to reflect the inclusion of the abandonment costs in the TRBAA, PG&E proposes to revise sections 3.103 and 5.5 of its TO Tariff to adjust for the amount of abandonment costs that the Commission approves for the Project. In the event that the Commission approves the recovery of an amount of abandonment costs that differs from the requested \$8.4 million, PG&E clarifies that it will true-up the Commission-approved amount as part of its next TRBAA filing.

9. PG&E requests that the Commission approve the proposed revisions to TO Tariff sections 3.103 and 5.5, to be effective December 13, 2011, subject to hearing and refund. PG&E explains that the December 13, 2011 effective date will allow PG&E to include the abandonment costs in the 2012 TRBAA while the Commission and parties have the opportunity to examine and challenge the proposed abandonment costs in a separate proceeding opened in connection with the instant filing.

III. Notice, Interventions, and Responsive Pleadings

10. Notice of PG&E's filing was published in the *Federal Register*, 76 Fed. Reg. 65,714 (2011), with interventions and comments due on or before November 3, 2011.

11. A notice of intervention was filed by the CPUC. Timely motions to intervene were filed by California Municipal Utilities Association (CMUA), California Department

after June 2010 from resources located in, directly connected to, or delivering in real-time to California. *Id.* at 3.

¹⁹ *Id.* at 3-4.

²⁰ PG&E states that its current annual transmission revenue requirement is \$934 million. *Id.* at 5.

of Water Resources State Water Project (SWP), Northern California Power Agency, Sacramento Municipal Utility District (SMUD), Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities), and Southern California Edison Company. Timely motions to intervene and protest were filed by the Modesto Irrigation District (Modesto) and TANC. PG&E filed an answer to Modesto and TANC's protests.

Protests and Comments

12. Modesto and TANC comment that PG&E's request to recover costs associated with its abandonment of the Project presents a case of first impression regarding the standard that the Commission will use to determine whether a project is abandoned for reasons beyond the transmission owner's control. Both parties assert that in the Incentives Order, the Commission stated that in order to recover abandonment costs for the Project, PG&E would be required to show that (1) the Project was abandoned for reasons outside of PG&E's control, (2) the costs were prudently-incurred, (3) the costs were not otherwise recovered, and (4) the resulting rates are just and reasonable.²¹ Modesto and TANC argue that PG&E has not shown that the Project was abandoned for reasons beyond its control, and therefore PG&E has not met the Commission's requirements to recover its abandoned project costs.²²

13. First, Modesto and TANC challenge PG&E's claim that state legislative action restricting the procurement of out-of-state renewables constitutes a reason for project abandonment that is beyond its control. While PG&E argues that the new RPS law has made the Project less attractive, both parties argue that PG&E has not asserted that the legislation has rendered the Project infeasible or uneconomical. They also assert that PG&E did not identify a change in California's RPS policy as a heightened risk worthy of incentive awards.²³ Further, Modesto and TANC argue that PG&E can proceed with the Project as the new RPS law does not inhibit the Project's original objectives nor does the new RPS law thwart the policy objectives for which the protestors assert the Commission granted PG&E the abandonment incentive.²⁴ Instead, they claim that the

²¹ Modesto and TANC argue that there is discrepancy between the "actual" year end values that PG&E submitted in its FERC Form 730 filings made on December 31, 2008, and December 31, 2009, and the data that PG&E claims in the instant filing in Exhibit PG&E-2 at 10. Modesto Protest at P 18, n.20; TANC Protest at P 17, n.23.

²² Modesto Protest at P 19; TANC Protest at P 18.

²³ Modesto Protest at P 22; TANC Protest at P 21.

²⁴ Modesto Protest at P 21; TANC Protest at P 20.

new RPS law changed the Project's profitability outlook and influenced, rather than forced, PG&E's decision to abandon the Project. Therefore, Modesto and TANC contend that PG&E's decision to abandon the Project due to reduced profit margins was within its control.²⁵

14. Modesto and TANC also challenge whether the withdrawal of the Project's minority co-sponsors was legitimately a factor beyond PG&E's control that led to its abandonment of the Project. Both protestors assert that PG&E chose to proceed with the development of the Project for two years after PacifiCorp dropped out and did not recruit other sponsors to fill its place. Modesto and TANC contend that PG&E's decisions not to hold an open season and, instead, turn away interested independent transmission companies were decisions made within PG&E's control. They contend that losing minority project sponsors is commonplace and does not make PG&E eligible for the recovery of abandonment costs, particularly because it was only after PG&E executed numerous power purchase agreements for in-state renewables that PG&E chose to abandon the Project, deeming it no longer profitable.²⁶

15. Lastly, Modesto and TANC argue that PG&E's decision not to accept the energy prices BC Hydro offered in favor of more affordable resources in alternative locations was an economic choice made by its management and, therefore, was within PG&E's control. Further, the parties assert that PG&E mischaracterizes the Incentives Order as citing the availability of more affordable resources in alternative locations as a risk that warrants the recovery of abandoned project costs. They claim the Project remains attainable as out-of-state renewables are both viable and beneficial to PG&E and its customers. TANC also asserts that the costs of typical development risks, such as those which PG&E seeks to recover, are a function of the changing market environment and evolving regulatory requirements and more appropriately granted as incentives or adders on Return on Equity requests.²⁷ Therefore, Modesto and TANC argue that absolving PG&E of its \$8.4 million investment to the detriment of its customers undermines Commission policy.²⁸

16. CMUA and SMUD take no position on the merits of PG&E's filing. However, they assert that due to the rapid increase in transmission investment in California, the

²⁵ Modesto Protest at P 24; TANC Protest at P 23.

²⁶ Modesto Protest at P 26; TANC Protest at P 25.

²⁷ TANC Protest at P 31.

²⁸ Modesto Protest at P 30; TANC Protest at P 29.

Commission may receive more requests for the recovery of abandonment costs, and that future requests may be for costs that are higher than PG&E's request. Therefore, CMUA and SMUD request that the Commission explicitly state that its determination in this proceeding is non-precedential with respect to future abandonment cost filings submitted by other transmission owners.²⁹

17. SWP comments that the TRBAA is the appropriate mechanism for PG&E to recover its abandonment costs.³⁰ Specifically, SWP asserts that recovery through the TRBAA will allow PG&E to recover its abandonment costs through one further rate filing and, because the abandonment costs will not be added to its rate base, these costs will not earn a return.

IV. Discussion

Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We are not persuaded to accept the answer filed by PG&E and will, therefore, reject it.

Commission Determination

19. We grant PG&E's request to recover the prudently-incurred costs associated with its abandonment of the Project. We find that during the Project's initial development, from approximately December 2007 through May 2011, certain circumstances arose that resulted in PG&E's abandonment of the Project and that these circumstances were beyond PG&E's control. As discussed below, we conclude that PG&E has demonstrated that it qualifies to recover 100 percent of the prudently-incurred project costs associated with its abandonment of the Project.³¹

²⁹ CMUA Comments at 3; SMUD Comments at 3.

³⁰ SWP Comments at 7. SWP takes no position on whether PG&E abandoned the project for reasons beyond its control or if the costs were prudently-incurred.

³¹ We note that our findings are based on the specific facts and circumstances presented in this matter.

20. In the Incentives Order, the Commission granted PG&E's request to recover 100 percent of its prudently-incurred abandonment costs if the Project is abandoned for reasons beyond PG&E's control. The Commission found that this incentive would allow PG&E to finance the Project and attract and maintain co-sponsors willing to develop the Project. The Commission stated, however, that in order for PG&E to recover these costs, PG&E would have to show that its rates reflecting the abandonment costs were just and reasonable in a subsequent section 205 filing, which PG&E has filed in this proceeding.

21. In the instant filing, PG&E bases its request to recover its abandonment costs on three developments that were among the factors PG&E identified in the December 2007 Petition as beyond its control and the Commission referenced in the Incentives Order. The first factor PG&E identifies is its loss of Project participants, which began in 2008 with the loss of Sierra Pacific, TANC, and PGE. The following year, after signing the Project's development agreement, PacifiCorp withdrew as a co-sponsor. Protestors do not contest the loss of these sponsors, but argue that PG&E had the responsibility to either accept a larger percentage of Project ownership or actively recruit additional sponsors, possibly through an open season. We do not find that PG&E had an obligation to assume a greater percentage of Project ownership under these circumstances. Further, testimony submitted by PG&E demonstrates that PG&E did, in fact, seek to recruit a sponsor(s) after PacifiCorp withdrew from the Project and that PG&E participated in active discussions with the other sponsors concerning how to add new Project investors³² and whether to conduct an open season.³³ Lastly, we note that while PG&E maintained the majority interest in the Project, PG&E estimated the total cost of the project at \$3.2 billion, \$1.3 billion of which PG&E expected its co-sponsors to invest. Thus, the withdrawal of co-sponsors and unavailability of replacement sponsors was a substantial loss to the Project that was beyond PG&E's control.

³² For example, according to the testimony of Stephen J. Metague, PG&E and its cosponsors were in active discussions with Western Area Power Administration (Western) to encourage it to join as a sponsor, and by 2010 Western, Bonneville Power Administration, Sacramento Municipal Utility District, and TANC were working with the Project participants regarding how to configure a Project arrangement that would benefit all parties. Exhibit PG&E-3 at A 12.

³³ Stephen J. Metague's testimony also explains that the decision not to conduct an open season was based on factors such as the premature stage of the Project's development and the inability of all co-sponsors to jointly support such a process, not a decision made solely on PG&E's behalf. Exhibit PG&E-3 at A 14.

22. We also find that the increased uncertainty related to the change in California's RPS requirements, such that at least 75 percent of deliveries through which California utilities satisfy the requirement to procure 33 percent of their electricity from renewables by 2020 must come from resources located in, directly connected to, or delivering in real-time to California, was another factor beyond PG&E's control that led to its abandonment of the Project. PG&E previously identified a "change in California RPS standards, disqualifying anticipated incremental renewable resources in PNW and/or Canada" as a regulatory obstacle beyond its control and worthy of incentive protection.³⁴ Thus, contrary to the protestors' assertions, the Commission did consider this type of risk when granting PG&E's request for the abandonment incentive.³⁵ Therefore, increased uncertainty related to the state's new RPS policy adversely impacted the stated purpose of the Project.

23. For these reasons, we grant PG&E's request to recover its prudently-incurred Project costs, finding that PG&E has adequately demonstrated that the factors leading to its abandonment of the Project were beyond its control, as required by the Incentives Order. However, while PG&E has supported its request to recover the costs associated with its abandonment of the Project, we find that the instant filing does not contain sufficient information for the Commission to determine if the amount of abandonment costs that PG&E proposes to recover was, in fact, prudently-incurred. Thus, we cannot conclude at this time that the rates resulting from PG&E including the proposed amount of abandonment costs in the 2012 TRBAA would be just and reasonable. In order to determine the appropriate amount of prudently-incurred abandonment costs that PG&E may recover, we will accept and suspend PG&E's proposed revisions to its TO Tariff, subject to refund, and set the appropriate amount of prudently-incurred abandonment costs for hearing and settlement judge procedures.

Suspension, Hearing, and Settlement Judge Procedures

24. The specific amount of Project abandonment costs that PG&E proposes to recover as prudently-incurred costs presents issues of material fact that cannot be resolved based upon the record before us and are more appropriately addressed in the hearing and settlement judge procedures ordered below.

25. Our preliminary analysis indicates that PG&E's request to recover \$8.4 million of prudently-incurred costs associated with its abandonment of the Project has not been

³⁴ December 2007 Petition at 37 (Table 2).

³⁵ The Commission did not cite this risk factor in the Incentives Order; however, PG&E identified this risk factor in the December 2007 Petition.

shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will conditionally accept PG&E's TO Tariff amendments for filing, make them effective as of December 13, 2011, subject to refund, and set the specific amount of abandonment costs that PG&E may recover in its 2012 TRBAA for hearing and settlement judge procedures.

26. While we are setting this matter for trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.³⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.³⁷

27. The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to the presiding judge.

The Commission orders:

(A) PG&E's request to recover project abandonment costs is granted based on the specific circumstances presented in this case, as discussed in the body of this order.

(B) PG&E's proposed TO Tariff rates, are hereby conditionally accepted for filing, suspended and placed into effect December 13, 2011, subject to refund and the outcome of the hearing established herein, as discussed in the body of this order.

(C) 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

³⁶ 18 C.F.R. § 385.603 (2011).

³⁷ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov – click on Office of Administrative Law Judges).

Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the prudence of the abandonment costs PG&E will include in its 2012 TRBAA and the justness and reasonableness of the resulting rates. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2011), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all the powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge in writing or by telephone within five (5) days of the date of this order.

(E) Within thirty (30) days of the date of this order, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in this proceeding in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a 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. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.