

127 FERC ¶ 61,252  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Pacific Gas and Electric Company

Docket No. ER08-1318-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued June 18, 2009)

1. On April 20, 2009, Pacific Gas and Electric Company (PG&E) filed an Offer of Settlement and Stipulation (Settlement) concerning PG&E's proposed changes to its wholesale and retail transmission rates under its Transmission Owner Tariff (TO Tariff). On May 8, 2009, the California Public Utilities Commission (CPUC) filed comments in support of the Settlement, and on May 11, 2009, Trial Staff filed comments in support of the Settlement. No other comments were filed. On May 12, 2009, the Settlement Judge certified the Settlement to the Commission as uncontested.

2. The Settlement resolves all issues in this proceeding. The Settlement is fair, reasonable, and in the public interest, and is hereby approved. The Commission's approval of the 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.<sup>1</sup>

3. The tariff sheets and rate schedule sheets submitted as part of the Settlement are properly designated, accepted for filing and made effective as specified in the Settlement.<sup>2</sup>

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</sup> *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000).

4. As described in section 2.3 of the Settlement, PG&E will make the refunds necessary to reflect the rates provided in the Settlement, and file a refund report with the Commission within thirty days of the date on which PG&E has provided refunds to all customers. The Commission notes that on May 11, 2009, the Chief Administrative Law Judge granted PG&E's motion for interim rate relief allowing PG&E's settled wholesale rates to become effective March 1, 2009.<sup>3</sup>

5. This order terminates Docket No. ER08-1318-000.

By the Commission. Commissioner Moeller concurring in part with a separate statement attached.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>3</sup> *Pac. Gas & Elec. Co.*, 127 FERC ¶ 63,010 (2009).

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MOELLER, Commissioner *concurring in part*:

While the settlement agreement does not state the applicable standard of review for changes, the explanatory statement clearly indicates that changes to the settlement agreement shall be subject to the “just and reasonable” standard. As I have noted regarding prior settlements,<sup>1</sup> I would once again remind parties that the standard of review they intend to apply to changes to the settlement agreement must match the standard set forth in the explanatory statement. An explanatory statement does not control the terms of a settlement agreement and in the event of a conflict, I intend to rely on the terms of the settlement agreement, not the explanatory statement, in determining the applicable standard of review.

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Philip D. Moeller  
Commissioner

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<sup>1</sup> *Pacific Gas and Elec. Co.*, 119 FERC ¶ 61,247 (2007) (Moeller, Comm’r, concurring in part).