

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Pacific Gas and Electric Company

Docket Nos. ER05-1021-000 and
ER05-1021-001

ORDER ACCEPTING SPECIAL FACILITIES AGREEMENT AND ACCEPTING
AND SUSPENDING, SUBJECT TO REFUND, GENERATOR INTERCONNECTION
AGREEMENT

(Issued August 2, 2005)

1. Pacific Gas and Electric Company (PG&E) has filed under section 205 of the Federal Power Act (FPA)¹ an unexecuted Generator Interconnection Agreement (Interconnection Agreement) and an executed Generator Special Facilities Agreement (Special Facilities Agreement) with the City and County of San Francisco Public Utilities Commission (San Francisco). We accept and suspend the unexecuted Interconnection Agreement to become effective on June 1, 2005, subject to refund and further Commission order. We accept the executed Special Facilities Agreement, to become effective June 1, 2005, as requested. We also grant waiver of the Commission's 60-day prior notice requirement.

I. PG&E's Filing

2. PG&E submitted its filing on May 26, 2005, as supplemented on June 3, 2005. PG&E states that the Interconnection Agreement provides for the interconnection and parallel operation of certain generating plants owned by San Francisco with PG&E's system at transmission level voltage. According to PG&E, the Interconnection Agreement establishes the operating protocols between San Francisco and PG&E and addresses the parties' ongoing business relationship; it does not provide for transmission, distribution or ancillary services. PG&E states further that the Interconnection Agreement describes the rights and obligations of the parties and provides terms and conditions for billing, operation, maintenance and metering. PG&E notes that, although the Interconnection Agreement does not contain rates or charges, it does set forth billing and payment provisions for San Francisco to reimburse PG&E for the costs of the

¹ 16 U.S.C. § 824d (2000).

maintenance requested by San Francisco. If PG&E performs such maintenance, PG&E states that the parties would agree to those rates and charges, and PG&E would file the rates with the Commission before collecting such charges.

3. According to PG&E, the Special Facilities Agreement provides for PG&E to furnish certain Special Facilities necessary interconnect the San Francisco Airport Electric Reliability Project generating plants to PG&E's electric transmission system. PG&E states that, under the Special Facilities Agreement, it would furnish certain interconnection facilities and would deliver electrical standby service to the San Francisco Airport Electric Reliability Project. Under the Special Facilities Agreement, PG&E would assess a monthly charge or an equivalent one-time charge for that service that reflects the monthly cost to PG&E of financing, owning and maintaining the interconnection facilities.

4. PG&E requests waiver of the Commission's 60-day prior notice requirement² so that the Interconnection Agreement and the Special Facilities Agreement can become effective June 1, 2005.

II. Notice and Interventions

5. Notice of PG&E's May 26, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 33,142 (2005), with interventions, comments, or protests due on or before June 16, 2005. Notice of PG&E's June 3, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 35,418 (2005), with interventions, comments, or protests due on or before June 24, 2005.

6. On June 6, 2005, the State of California Public Utilities Commission (California PUC) filed a notice of intervention. On June 16, 2005, San Francisco filed a timely, unopposed motion to intervene. It requests the Commission to accept the Special Facilities Agreement with the costs stipulated in PG&E's June 3, 2005 filing, and grant any necessary waivers in order to provide for a June 1, 2005 effective date for that agreement. San Francisco also requests that the Commission refrain from taking any action on the Interconnection Agreement until it completes its negotiations with PG&E on that agreement and obtains the necessary approvals to execute the Interconnection Agreement.

² 18 C.F.R. § 35.3 (2005).

III. Discussion

7. The parties are still negotiating the terms of the Interconnection Agreement. San Francisco requests that the Commission accept the Special Facilities Agreement and refrain from taking any action on the Interconnection Agreement until PG&E and San Francisco have negotiated certain changes to the agreement and the agreement is executed. As requested, we will, therefore, accept the Special Facilities Agreement as filed, as it appears to be just and reasonable and has not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. In addition, as requested, given the ongoing negotiations and the fact that the IA has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful, we will accept the Interconnection Agreement for filing and suspend it for a nominal period, subject to refund and further Commission order.

8. We will grant the parties a 90-day time period from the date of issuance of this order to complete negotiations on the unexecuted Interconnection Agreement.³ If the parties successfully conclude these negotiations, we direct PG&E to file the executed Interconnection Agreement as a compliance filing in this proceeding for Commission review. However, if the parties are unable to reach agreement during that 90-day time period, we direct PG&E to notify the Commission of the status of the negotiations and any outstanding issues. In addition, we will require PG&E to file an initial status report on the negotiations within 45 days of the date of issuance of this order.

³ While Order Nos. 2003 and 2003-A established compliance obligations and effective dates for transmission providers' *pro forma* Large Generator Interconnection Procedures and Large Generator Interconnection Agreements, the Commission granted PG&E, along with other California entities, an extension of time, until January 5, 2005, in which to make its compliance filing. The Commission recently approved this compliance filing, to be effective on July 1, 2005. Because the filing at issue in this proceeding was made before that July 1, 2005 effective date, the Interconnection Agreement in this proceeding is grandfathered from compliance. *See Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003, FERC Stats. & Regs. ¶ 31,146 (2003)), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005); *see also* Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,401 (2005), and *California Independent System Operator Corp., Pacific Gas and Electric Co., San Diego Gas and Electric Co., and Southern California Edison Co.*, 112 FERC ¶ 61,009 (2005).

9. We will grant waiver of the 60-day prior notice requirement for both agreements so that both are effective, as requested, on the same day, June 1, 2005.⁴ In this regard, we note that PG&E submitted its filing prior to the effective date of the contracts and prior to the collection of funds.

The Commission orders:

(A) The unexecuted Interconnection Agreement is hereby accepted for filing and suspended, to become effective on June 1, 2005, subject to refund, and further Commission order, as discussed in the body of this order.

(B) The executed Special Facilities Agreement is accepted for filing, to become effective on June 1, 2005, as discussed in the body of this order.

(C) Waiver of the Commission's 60-day prior notice requirement is hereby granted.

(D) Within 90 days, PG&E is hereby directed to file either an executed Interconnection Agreement upon the successful conclusion of negotiations, or a report concerning the status of negotiations, as discussed in the body of this order. In addition, PG&E is directed to file an initial status report regarding the negotiations within 45 days of the issuance of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁴ See *Central Hudson Gas and Electric Company*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).