

reserved issue (2004 Settlement). This reserved issue bears on the objection of San Diego Gas & Electric Company (SDG&E) 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.³ Article V of the 2004 Settlement specifically states that the 2004 Settlement shall not prejudice: (a) SDG&E's right to argue in this proceeding that the GMC charges should not be applied to such Energy Schedules; or (b) the CAISO's right to argue in this proceeding that SDG&E's challenge to the applicability of the GMC charges to such Energy Schedules should be governed by the Commission's decisions in Docket Nos. ER01-313-000, *et al.*, and any further rulings on judicial review or, if applicable, on remand. Article V further states that both the CAISO and the parties urge the Commission to accept the 2004 Settlement as uncontested other than the reserved issue.

3. The 2004 Settlement resolves complex issues concerning allocation of the costs of administering and operating the CAISO controlled grid and provides for increased stakeholder involvement in the CAISO's budget process. The 2004 Settlement provides mechanisms to increase transparency and accountability of GMC costs. For example, the 2004 Settlement includes a revenue ceiling as an incentive for the CAISO to control costs. Specifically, if the CAISO revenue requirement does not exceed \$218.4 million for budget year 2005, or \$221 million for budget year 2006, then the CAISO is not required to make a filing under section 205 of the Federal Power Act (FPA), 16 U.S.C. § 824d (2000), to update its GMC rates. Transparency is nevertheless achieved because under the terms of the 2004 Settlement, in lieu of a section 205 filing, the CAISO is required to post on its website all workpapers supporting the calculation of each year's respective GMC costs. The PG&E portion of the 2004 Settlement provides for the pass-through of GMC costs to customers who use PG&E as a Scheduling Coordinator, and expressly exempts certain customers from such pass-through, contingent on the outcome of pending appeals from earlier GMC cases.

4. Trial Staff and the California Department of Water Resources State Water Project (SWP) each filed initial comments supporting the 2004 Settlement and requesting the Presiding Administrative Law Judge to certify the 2004 Settlement to the Commission. No reply comments were filed. On August 23, 2004, the Presiding Judge declined to certify the 2004 Settlement due to the outstanding contested issue and, instead, filed a

³ This issue is currently pending before the Commission on petition for review of an arbitration award in Docket No. EL04-24-000. At issue in that proceeding is whether the CAISO may charge SDG&E for imbalance energy needed to cover transmission line losses on the Southwest Power Link. The outcome of that proceeding will impact those administrative costs that the CAISO has billed SDG&E, through the GMC, to procure the imbalance energy for the Southwest Power Link. The outcome of that proceeding will not, however, detract from the Commission's determination that acceptance of the Settlement is in the public interest.

status report,⁴ In the status report, the Presiding Judge explained that, while the 2004 Settlement is apparently not contested, the Explanatory Statement makes plain that Article V reserves a contested issue, and provides for the CAISO, SDG&E and any party before the Commission to make arguments concerning this issue before the Commission and for the Commission to resolve this issue. On August 24, 2004, the Chief Judge terminated the Settlement Judge procedures.

The CAISO's 2005 GMC Filing

5. On December 15, 2004, in Docket No. ER05-346-000, the CAISO submitted for filing under section 205, a conditional filing to implement revised GMC rates for 2005 (2005 GMC Filing). The CAISO states that the proposed 2005 GMC Filing reflects a reduction from the 2004 GMC rates. The CAISO points out that the 2004 Settlement provides that, if the CAISO's 2005 revenue requirement declines from the 2004 settled level or does not increase by more than a specified amount, the rates specified in the 2005 GMC Filing may go into effect without the need for a filing under section 205. Accordingly, the CAISO renews its request to the Commission to approve the 2004 Settlement and, thereafter, treat the 2005 GMC Filing as withdrawn.⁵

6. Notice of the CAISO's filing in Docket No. ER05-346-000 was published in the *Federal Register*, 69 Fed. Reg. 78,013 (2004), with protests and interventions due on or before January 5, 2005. Timely motions to intervene raising no issues were filed by SWP; City and County of San Francisco (San Francisco); the Cogeneration Association of California & the Energy Producers & Users Coalition (CAC/EPUC); Northern California Power Agency; PG&E; Sacramento Municipal Utility District; Southern California Edison Company; and Turlock Irrigation District (Turlock). A motion to intervene out of time raising no issues was filed by SDG&E. TransAlta Energy Marketing (U.S.) Inc. (TransAlta) filed a late motion to intervene, reserving the right to protest the 2005 GMC Filing if the Commission does not approve the 2004 Settlement. Timely motions to intervene and comments were filed by the California Electricity Oversight Board (the CEOB); the Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency (Cities/M-S-R); and Powerex Corp. Timely motions to intervene and conditional protests were filed by the California Municipal Utilities Association; the Modesto Irrigation District (Modesto), the Metropolitan Water District of Southern California; and the Transmission Agency of Northern California (TANC).

⁴ See "Status Report on Offer of Partial Settlement," *California Independent System Operator Corp.*, 108 FERC ¶ 63,025 at P1 (2004) (citing *Cities of Anaheim*, 101 FERC ¶ 61,392 (2002)).

⁵ See Docket No. ER05-367-000, Transmittal Letter at 1–2. The CAISO states that, in the event the Commission does not accept the 2004 Settlement that renders moot the 2005 GMC Filing, the CAISO requests the Commission to grant surcharge authority if refunds of GMC payments made are deemed appropriate.

The comments and protests urge the Commission to approve the 2004 Settlement. On January 21, 2005, the CAISO filed an answer.

PG&E's 2005 Pass-Through Tariff Filing

7. On December 22, 2004, in Docket No. ER05-367-000, PG&E filed revisions to its Pass-Through Tariff to align its rates with the CAISO's 2005 GMC Filing (2005 Pass-Through Tariff Filing). PG&E states that the 2005 Pass-Through Tariff Filing is expected to result in reduced charges because the rates specified in the CAISO's 2005 GMC Filing seek to recover a revenue requirement that is approximately \$10 million below the CAISO's 2004 revenue requirement. PG&E requests waiver of notice to allow an effective date of January 1, 2005, or the date upon which the Commission makes the CAISO's 2005 GMC Filing effective. PG&E also requests that the Commission consolidate its filing with the CAISO's 2005 GMC Filing.

8. Notice of PG&E's filing in Docket No. ER05-367-000 was published in the *Federal Register*, 70 Fed. Reg. 1432 (2005), with protests and interventions due on or before January 12, 2005. Timely motions to intervene raising no issues were filed by San Francisco; CAC/EPUC; Cities/M-S-R; TANC; SWP, and Turlock. A motion to intervene one day out-of-time raising no issues was filed by the CEOB. A timely motion to intervene and conditional protest was filed by Modesto.

9. Modesto requests that the Commission approve the 2004 Settlement, and states that such acceptance would render moot the need for PG&E's 2005 Pass-Through Tariff Filing in this docket.⁶

Discussion

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices of intervention and timely, unopposed motions to intervene in Docket Nos. ER05-346-000 and ER05-367-000 serve to make the entities that filed them parties to the proceeding(s) in which they were filed. We accept the motions to intervene out-of-time of SDG&E and TransAlta in Docket No. ER05-346-000 and CEOB in Docket No. ER05-367-000, given their interest in their respective proceedings, the early stage of these proceedings, and the absence of any undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R.

⁶ Modesto requests, in the event the Commission does not approve the 2004 Settlement before issuing an order on PG&E's filing, that the Commission make PG&E's filing subject to the outcome of that proceeding. If however, the Commission were to neither approve the 2004 Settlement nor make PG&E's filing subject to the outcome of that proceeding, Modesto requests that the Commission find that PG&E has not shown that its proposed 2005 Pass-Through Tariff Filing is just and reasonable, and asks the Commission to institute hearing and settlement judge procedures. Finally, Modesto requests that the Commission consolidate PG&E's filing with the CAISO's 2005 GMC Filing.

§ 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the CAISO's answer filed in Docket No. ER05-346-000, and will, therefore, reject it.

11. The 2004 Settlement is in the public interest and is hereby approved. The tariff revisions are hereby accepted for filing, as designated, effective January 1, 2004, as specified in the 2004 Settlement. The Commission's approval of the 2004 Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The CAISO and PG&E are hereby directed to refund any amounts collected in excess of the 2004 Settlement rates together with interest computed under section 35.19a of the Commission's Regulations, 18 C.F.R. § 35.19a (2004). Within thirty (30) days after making such refunds, the CAISO and PG&E shall file with the Commission a compliance refund report with supporting workpapers.

12. The Commission's approval of the 2004 Settlement renders the CAISO's 2005 GMC Filing in Docket No. ER05-346-000 moot. Accordingly, per the CAISO's request, the CAISO's 2005 GMC Filing is deemed withdrawn. Since the purpose of PG&E's 2005 Pass-Through Tariff Filing in Docket No. ER05-367-000 is to align its Pass-Through Tariff rates with the CAISO's 2005 GMC Filing, which is withdrawn, Docket No. ER05-367-000 is also now moot, and hereby dismissed.

13. This order terminates Docket Nos. ER04-115-000, EL04-47-000, ER04-242-000 and EL04-50-000 for all parties and issues, except for the issue currently on review in Docket No. EL04-24-000. In addition, as discussed above, this order also terminates Docket Nos. ER05-346-000 and ER05-367-000.

The Commission Orders:

(A) The Offer of Partial Settlement is hereby approved.

(B) Docket No. ER05-364-000 is hereby deemed withdrawn.

(C) Docket No. ER05-367-000 is hereby dismissed.

(D) Within 30 days of the issuance of refunds, the CAISO and PG&E shall submit a refund report to the Commission.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.