

121 FERC ¶ 61,096
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pacific Gas and Electric Company

Project No. 2118-028

ORDER GRANTING CLARIFICATION

(Issued October 29, 2007)

1. On October 2, 2007, Pacific Gas and Electric Company (PG&E or licensee) filed a request for clarification, or, in the alternative, a request for rehearing of the September 6, 2007 order¹ approving a fire prevention and response and investigation plan (Fire Plan) issued by Commission staff for the licensee's Donnell-Curtis Transmission Line Project No. 2118 (Donnell-Curtis).²
2. Specifically, the licensee requests the Commission to clarify that the terms of its license with regard to the Fire Plan are identical to the terms set forth in the September 27, 2007 order³ amending the license issued by Commission staff. In the alternative, the licensee requests a rehearing of the September 6 Order to modify Ordering Paragraph (B) to be consistent with the terms of the license as set forth in the September 27 Order. This order grants the clarification.

Background

3. On March 3, 2006, Commission staff issued a new license for Donnell-Curtis⁴ and imposed, pursuant to section 4(e) of the Federal Power Act,⁵ thirty-six conditions

¹ *Pacific Gas and Electric Company*, 120 FERC ¶ 62,170 (2007) (September 6 Order).

² The Donnell-Curtis Transmission Line Project occupies approximately 80 acres of U.S. Forest Service land entirely within the Stanislaus National Forest in the Sierra Nevada Range of north-central California. The project serves as the primary transmission lines for Beardsley/Donnell Hydroelectric Project No. 2005.

³ *Pacific Gas and Electric Company*, 120 FERC ¶ 62,216 (2007) (September 27 Order).

⁴ *Pacific Gas and Electric Company*, 114 FERC ¶ 62,216 (2006).

⁵ 16 U.S.C. § 797(e) (2000).

required by the U.S. Forest Service (Forest Service). Relevant to PG&E's request for clarification is Condition 7, entitled "Fire Prevention, Response, and Investigation," which requires the licensee to file a Forest Service-approved Fire Plan with the Commission and to cooperate fully with the Forest Service on all fire investigations.

4. The licensee filed its Fire Plan for Donnells-Curtis on March 1, 2007. Acting on this filing, Commission staff issued the September 6 Order approving the Fire Plan. However, the Fire Plan did not specifically include measures for investigation of project-related fires; therefore Commission staff included Ordering Paragraph (B), which required the applicant to cooperate with the Forest Service on all project-related fire investigations. The language of Ordering Paragraph (B) was modeled upon, and is very similar to, the requirements set forth in Condition 7 regarding licensee cooperation with Forest Service fire investigations.

5. On August 3, 2007, while the Fire Plan was pending, PG&E filed a request to amend the project license for Donnells-Curtis based on a settlement between the licensee and the Forest Service. The request included several substantive changes to Condition 7, including modifications to the licensee's and the Forest Service's responsibilities during investigations of project-related fires. Commission staff issued the September 27 Order amending PG&E's license to include requested alterations to its section 4(e) conditions, including Condition 7.

Discussion

6. The licensee has essentially asked the Commission to reconcile the language in Ordering Paragraph (B) and the recently approved language contained in the amended Condition 7.

7. The Commission will grant the clarification. Although the language is not identical, the requirements set forth in Ordering Paragraph (B) of the September 6 Order closely track, and have the same general meaning as, the recently amended Condition 7 as it relates to Forest Service investigation of project-related fires.

8. However, in order to eliminate any confusion regarding the licensee's responsibilities during Forest Service fire investigations, the Commission will delete Ordering Paragraph (B) from the September 6 Order.

9. This action in no way alters the licensee's obligation to cooperate with Forest Service fire investigations. On the contrary, the requirements set forth in the amended Condition 7, authorized in the September 27 Order, mandate that the licensee fully cooperate with all Forest Service investigations of project-related fires. The section 4(e) Condition 7 approved in the September 27 Order clearly sets out PG&E's obligations and responsibilities.

The Commission orders:

(A) The request for clarification, as discussed above, is granted.

(B) Ordering Paragraph (B) of the Commission staff's September 6, 2007 Order issued in Project No. 2118-017 is deleted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.