

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pacific Gas and Electric Company

Docket Nos. ER03-1115-001
ER03-1115-002

ORDER ON COMPLIANCE FILING AND GRANTING REHEARING

(Issued March 26, 2004)

1. In this order, we grant Pacific Gas & Electric Company's (PG&E's) request for rehearing of a previous order accepting, as modified, Interconnection Agreements between PG&E and Elk Hills Power, LLC (Elk Hills).¹ This order also accepts the compliance filing submitted in this proceeding, subject to modification in a further compliance filing. This action benefits customers because it assures that the terms, conditions, and rates for interconnection service are just and reasonable.

I. Background

2. In the October 3 Order, we accepted for filing several agreements between PG&E and Elk Hills, specifically, (1) a revised Generator Special Facilities Agreement (GSFA), (2) a revised Supplemental Letter Agreement, and (3) a Generator Interconnection Agreement (IA). However, we also required PG&E to modify the GSFA to reflect our finding that two 230 kV circuit breakers and associated facilities are located at or beyond the point of interconnection and are therefore upgrades to PG&E's transmission network, not direct assignment facilities. As such, PG&E will be obligated to pay Elk Hills credits for the costs of those upgrades when Elk Hills takes the delivery component of transmission service.

II. Notice and Pleadings

3. On November 3, 2003, PG&E submitted a revised Generator Special Facilities Agreement to comply with the Commission's directives in the October 3 Order. On the

¹ Pacific Gas & Electric Co., 105 FERC ¶ 61,020 (October 3, 2003) (October 3 Order).

same day, PG&E also filed a request for rehearing of the October 3 Order. PG&E later filed a supplement to its request for rehearing. Elk Hills filed answers to both PG&E's initial rehearing request (on November 14, 2003) and PG&E's supplement to the request for rehearing (on January 6, 2004).²

III. Discussion

4. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure³ prohibits an answer to a rehearing request unless otherwise ordered by the decisional authority. We are not persuaded to accept Elk Hills' answer and will, therefore, reject it.

A. PG&E's Request for Rehearing

5. PG&E argues that the two 230 kV breakers and associated facilities are properly classified as interconnection facilities, the cost of which should be borne by Elk Hills. PG&E contends that "these facilities are situated prior to (i.e., on the generator's side of) the point of interconnection to the transmission system."⁴ PG&E further states that these facilities "constitute an integral part of the radial lines between the generating plant and the point of interconnection" and "do not meet the definition of network facilities."⁵

6. In its Supplement to the Request for Rehearing, PG&E states that two recent Commission decisions⁶ support its claim that the circuit breakers and associated facilities located on the radial line between the generating plant and the point of interconnection are sole use facilities, not network upgrades. These decisions were both issued after PG&E's rehearing request was filed, hence the supplement.

² The answers argue that PG&E offered no new information to suggest that the facilities should be directly assigned and the decisions noted by PG&E do not support its position.

³ 18 C.F.R. §385.213(a)(2) (2003).

⁴ PG&E Request for Rehearing, November 3, 2003, p. 2.

⁵ Id.

⁶ Progress Energy Carolinas, Inc., 105 FERC ¶ 61,231 (2003) ; Pacific Gas & Electric Co., 105 FERC ¶ 61,267 (, 2003).

B. Commission Response

7. Upon reconsideration, we agree with PG&E that the two 230 kV circuit breakers and associated facilities are, in this instance, properly classified as sole use (direct assignment) facilities, the cost of which should be borne by Elk Hills. The Commission has stated that the "point of interconnection," as we use the term, is where the interconnection facilities interconnect to the existing transmission system.⁷ In the Commission's October 3 Order, we concluded that because the facilities in question were located inside a PG&E substation, they were part of PG&E's transmission system. Upon further review of the configuration within the PG&E substation, we conclude that the circuit breakers and associated facilities are located prior to the physical point of interconnection with PG&E's transmission system. This is unlike other configurations where circuit breakers are located at or beyond the physical point of interconnection. Thus, these facilities benefit only Elk Hills, and their costs are directly assignable.⁸ We conclude, therefore, that Elk Hills is not eligible for transmission credits for these facilities.

The Commission orders:

- (A) PG&E's request for rehearing is granted, for the reasons discussed above.
- (B) The revised Generator Special Facilities Agreement is accepted, subject to modifications discussed above, effective April 23, 2001.
- (C) PG&E is directed to make a compliance filing within thirty (30) days of the date of this order, to amend the GSFA consistent with the findings in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas
Secretary.

⁷ Pacific Gas and Electric Co., 106 FERC ¶61,240 at P 5 (2003). See also, Progress Energy Carolinas, Inc., 105 FERC ¶ 61,231 at P 6 (2003).

⁸ A different conclusion would be appropriate if a transmission provider treats otherwise non-network interconnection facilities as network facilities by booking their costs to the transmission function for inclusion in the transmission provider's rates to network customers.