

108 FERC ¶ 61,015
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pacific Gas and Electric Company

Docket No. ER04-828-000

ORDER ACCEPTING AND SUSPENDING SPECIAL FACILITIES AGREEMENT

(Issued July 7, 2004)

1. Pacific Gas and Electric Company (PG&E) has filed a Special Facilities Agreement for the Newark Substation Circuit Breaker 460 and 470 Breaker Replacement (Agreement) with Silicon Valley Power (SVP). We accept and suspend the filing, to be effective May 18, 2004, subject to refund and further Commission order. In addition, we grant waiver of the Commission's 60-day prior notice requirement.

2. This order benefits customers because it ensures facilities will be in place when needed for the new Donald Von Raesfeld/Pico Power Plant (DVR) plant.

I. PG&E Filing

3. PG&E states that the Agreement provides for PG&E to replace existing circuit breakers that PG&E states are necessary to provide transmission from SVP's new DVR Plant. PG&E also states that this Agreement provides for SVP to compensate PG&E for the construction and ongoing operation and maintenance costs associated with PG&E's ownership of these facilities. PG&E has calculated the monthly costs of ownership based on its currently effective rate of 0.31 percent and the estimated cost of installation.

4. PG&E states it is filing this unexecuted Agreement so PG&E can plan and install the necessary facilities at PG&E's Newark Substation to accommodate SVP's new DVR Plant.

5. PG&E requests waiver of the Commission's 60-day prior notice requirement. PG&E states this waiver is necessary in order for PG&E to collect funds from SVP so PG&E can begin the design work and purchase materials for the upgrade in order for the new circuit breakers to be in place by January 2005, the date the DVR Plant is scheduled to begin operations.

6. Last, PG&E requests that the Commission accept this filing, and suspend it for a nominal period, but delay setting further procedures for 90 days to allow the parties an opportunity to continue negotiating the terms of the Agreement.

II. Notice and Intervention

7. Notice of PG&E's filing was published in the Federal Register, 69 Fed. Reg. 29,292 (2004), with interventions or protests due on or before May 21, 2004. SVP filed a timely motion to intervene and protest.

8. SVP states it has been negotiating this Agreement with PG&E for several months, but, with the approaching operational date of its DVR Plant, agreed to PG&E's filing of the Agreement now. SVP states it still has several outstanding concerns regarding the proposed apportionment of costs as well as whether the Agreement should contain a recitation of payments made by SVP.¹ SVP adds that it supports PG&E's request that the Commission accept the Agreement, and suspend it, to allow the parties to continue their negotiations.

III. Discussion

9. Pursuant to rule 214 of the Commission's Rule of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motion to intervene serves to make SVP a party to this proceeding.

10. While, as both PG&E and SVP note, the parties are still discussing some aspects of the Agreement, they appear to have agreed on many of the issues. In addition, both parties are currently negotiating this Agreement and both parties have requested the Commission allow them to continue their negotiations for another 90 days. We will accept the Agreement for filing and suspend it for a nominal period, to become effective subject to refund and further Commission order. If the parties successfully conclude negotiations, we direct PG&E to timely file as a compliance filing in this proceeding an amended Agreement for Commission review. However, if the parties are unable to reach agreement and file within 90 days, we direct PG&E to notify the Commission of the status of the negotiations, and any outstanding issues. Additionally, we will grant waiver of the prior notice requirement.²

¹ SVP notes that its protest is summary in nature so as to not disrupt the ongoing negotiations.

² See *Central Hudson Gas and Electric Company, et al.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

The Commission orders:

(A) The Agreement is hereby accepted for filing and suspended, to be effective May 18, 2004, subject to refund and further Commission order, as discussed in the body of this order.

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

(C) Within 90 days, PG&E is hereby directed to file either an amended Agreement upon the successful conclusion of negotiations, or a report concerning the status of the negotiations, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.