

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 10, 2003

In Reply Refer To:
Pacific Gas and Electric Company
Docket No. ER03-358-002

Pacific Gas and Electric Company
77 Beale Street, 31st Floor
Post Office Box 7442
San Francisco, CA 94120

Attention: Randall J. Litteneker
Attorney for Pacific Gas and Electric Company

Reference: Compliance Refund Report

Dear Mr. Litteneker:

1. On March 31, 2003, Pacific Gas and Electric (PG&E) submitted for filing a refund report in compliance with a Commission order issued on February 27, 2003.¹ As discussed below, the Commission will accept the refund report as being in compliance with the February Order.

Background

2. On December 31, 2002, PG&E filed twelve agreements related to the interconnection between PG&E and several generators owned by Calpine Corporation. The submittal included, for each generator, a Generator Special Facilities Agreement (GSFA), a Generator Interconnection Agreement (GIA) and a Letter Agreement supplementing, clarifying, and modifying the GSFA.

3. In the February Order, the Commission accepted for filing and suspended, subject to refund, the interconnection agreements among PG&E and the generators and set

¹Pacific Gas and Electric Company, 102 FERC ¶ 61,232 (2003) (February Order).

certain issues for settlement judge procedures and hearing. The Commission also denied PG&E's waiver requests.

4. Specifically, the Commission denied PG&E's requests for waiver of the prior notice requirements and for waiver of the interest payments on pre-interconnection activities, if waiver of the notice requirement were denied. However, the Commission granted PG&E the opportunity, in a compliance filing, to address whether the time value of refunds would result in PG&E constructing the instant interconnections at a loss.²

5. In the instant compliance refund report, PG&E states that refunds of approximately \$311,837 will be made to the interconnecting generators in this case. PG&E states that the refund report was developed by comparing the time value of funds deposited with PG&E for each project with PG&E's project costs incurred for each project. In doing so, the refund report shows that PG&E's costs did not, except in one instance, exceed the generators' deposited funds.

Notice of Filing

6. Notice of PG&E's compliance filing was published in the Federal Register, 68 Fed. Reg. 17,793 (2003), with comments, protests, or interventions due on or before April 21, 2003. On April 21, 2003, the Calpine Parties filed comments on the refund report.³

7. The Calpine Parties state that, although the refund methodology employed by PG&E in the compliance filing appears acceptable, they have not yet been able to confirm that all the payment and expenditure dates and the amounts listed by PG&E in the refund report are accurate. The Calpine Parties further explain that, as part of the settlement process established by the February Order, they and PG&E are undertaking a "true-up" accounting for the generator projects that have been completed in order to verify the payment and expenditure data. As a result, the Calpine Parties contend that the amount of time value refunds could be affected if the amounts or dates of payments and expenditures change as a result of the true-up.

8. The Calpine Parties request that the Commission issue an order approving PG&E's refund calculations and require PG&E to make the refund quantified in the refund report. They also request that the Commission instruct PG&E to file subsequently a revised

²See February Order at P 28.

³The Calpine Parties are defined as the twelve generators that are each a parties to a set of interconnection agreements (GSFA, GIA, and Letter Agreement) with PG&E.

refund report based on the final payment and expense amounts and dates that the parties ultimately agree upon in the settlement.

Discussion

9. In the February Order, the Commission denied PG&E's request for waiver of the Commission's notice requirements and ordered PG&E to refund the time value of money from the date funds were collected to the date that the interconnection agreements were made effective. In the instant filing, PG&E has complied with the February Order insofar as refunds are proposed to be made based upon the time when PG&E received payments from the Calpine Parties, to the date the Commission allowed the agreements to become effective.

10. However, the Commission also set for settlement discussions and hearing, the specific cost information and the allocation of such costs between interconnection and network upgrade facilities.⁴ As a result, since the interconnection agreements were suspended, subject to refund, PG&E must still make further refunds if it is found that the specific cost information and cost allocation issues reveal different expenditure amounts and payment dates. Accordingly, PG&E will be required to make additional refunds if the outcome of the settlement negotiations or hearing warrant. As such, no additional refund instruction is necessary now; it is already required by the February Order. Therefore, the Commission will accept PG&E's compliance refund report.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁴See February Order at P 21.