

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 No. ER00-565-011

ORDER APPROVING UNCONTESTED PARTIAL SETTLEMENT

(Issued June 1, 2005)

1. On September 23, 2004, Pacific Gas and Electric Company (PG&E) filed an Offer of Partial Settlement (the Partial Settlement) in the above referenced docket. The Partial Settlement resolves all issues between PG&E and Dynegy Power Services, Inc. (formerly Destec Power Services) (Dynegy) pending in this proceeding, which concerns PG&E's Scheduling Coordinator Services Tariff (SCS Tariff).
2. On October 13, 2004, comments were filed by the Commission Trial Staff, City of Santa Clara, Silicon Valley Power (SVP), and Northern California Power Agency (NCPA). On October 25, 2004, PG&E filed reply comments. On November 8, 2004, the presiding Administrative Law Judge certified the uncontested Partial Settlement to the Commission subject to the addition of the express condition that PG&E may not spread costs that would be properly allocable to Dynegy to other SC customers, which condition PG&E does not oppose.¹
3. The subject settlement is in the public interest and is hereby approved, including the proposed condition. The Commission's approval of the Partial Settlement does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.
4. Dynegy was a Scheduling Coordinator (SC) Customer of PG&E from April 1, 1998 until March 1, 2000, when it assumed SC responsibilities for its load and resources. In July 2004, PG&E submitted an invoice to Dynegy for \$192,136.52, comprised of \$139,996.17 in Accrued SC Charges under PG&E's SCS Tariff and \$52,140.35 in accrued interest.

¹ *Pacific Gas and Electric Co.*, 109 FERC ¶ 63,028 (2004).

5. Under the terms of the Partial Settlement, Dynegy agrees to pay PG&E, within twenty (20) business days of the Settlement's effectiveness, \$144,000 less any amount already paid to PG&E under the SCS Tariff and that PG&E can retain amounts already paid by Dynegy. The total \$144,000 payment settles Dynegy's liability for amounts that are owed by it to PG&E under the SCS Tariff for the period from April 1, 1998, to the Partial Settlement's effective date. The Partial Settlement does not conclude this proceeding as to the six other SC Customers, who are continuing to litigate the case.

6. This order terminates Docket No. ER00-565-011.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Linda Mitry,
Deputy Secretary.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it accepts for filing an agreement with an Explanatory Statement that provides, in relevant part: “It is PG&E’s and Dynegy’s intent, with respect to the specific issues resolved in the Settlement, that the Settlement cannot be changed unless a showing is made that the public interest requires it.”

	<hr/> <p>Suedeem G. Kelly</p>
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