

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Pacific Gas and Electric Company	)	Docket Nos. ER17-1735-000
	)	ER17-1750-000
	)	(not consolidated)

**JOINT OFFER OF SETTLEMENT**

Pursuant to Rule 602 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2018), Pacific Gas and Electric Company (“PG&E”) and the City of Santa Clara doing business as Silicon Valley Power (“SVP”) (collectively “Settling Parties”)<sup>1</sup> submit this Joint Offer of Settlement (“Settlement”) to resolve all issues in dispute in this proceeding. Attached as Appendix A is a Revised Interconnection Agreement (“Revised 2017 IA”) reflecting the changes agreed upon by the Settling Parties in both clean and redline.

**ARTICLE 1: PROCEDURAL BACKGROUND**

Under the terms of a settlement, on September 1, 2002, the Interconnection Agreement (“2002 IA”) between PG&E and SVP became effective, replacing a 1983 Interconnection Agreement (“1983 IA”) between the parties. The 2002 IA was SVP’s primary agreement with PG&E, governing the interconnected nature of the parties’ electric facilities. The 2002 IA included, as appendices, several Special Facilities Agreements (“SFAs”). The SFAs were added to the 1983 IA and the 2002 IA over time, concurrent with the development of SVP hydroelectric generating facility projects and SVP transmission projects.

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<sup>1</sup> The only other Party to the proceedings is the Northern California Power Agency (“NCPA”). NCPA has requested that its position be characterized as “not opposing” the Settlement.

On June 1, 2017, in Docket No. ER17-1735-000, PG&E submitted a Notice of Termination of the 2002 IA (“2002 IA Notice of Termination”), requesting it terminate on July 31, 2017.<sup>2</sup> Also on June 1, 2017, in Docket No. ER17-1750-000, PG&E submitted a replacement to the 2002 IA, the unexecuted 2017 Interconnection Agreement (“2017 IA”) and two executed Transmission Facilities Agreements (“TFAs”) between PG&E and SVP (“2017 Agreements Filing”), requesting an effective date of August 1, 2017, to coincide with its requested termination of the 2002 IA. PG&E stated that the 2017 Agreements are intended to replace the 2002 IA.<sup>3</sup>

On June 22, 2017, SVP filed a combined “Protest, Requests for Suspension, Hearing and Settlement Procedures, and Motion to Consolidate” (“Protest”) in Docket Nos. ER17-1735-000 and ER17-1750-000, raising a number of issues with the 2017 IA.<sup>4</sup> On July 28, 2017, an order was issued, finding that PG&E’s 2017 Agreements Filing and 2002 IA Notice of Termination raise issues of material fact that cannot be resolved based on the existing record, and are more appropriately addressed in hearing and settlement judge procedures.<sup>5</sup> In the 2017 Agreements Order, the 2017 Agreements Filing and the 2002 IA Notice of Termination were accepted for filing, suspended for a nominal period, to become effective August 1, 2017 and July 31, 2017, respectively, subject to refund, and set for hearing and settlement judge procedures.<sup>6</sup>

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<sup>2</sup> *Pac. Gas & Elec. Co.*, 160 FERC ¶ 62,099 at P 1 (2017) (“2017 Agreements Order”).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.*

On August 17, 2017, PG&E filed a request for rehearing of the 2017 Agreements Order and requested that the Commission make a prompt merits ruling on the issues raised by SVP.

## **ARTICLE 2: SCOPE OF SETTLEMENT**

This Settlement resolves all of the issues raised by the Settling Parties with respect to the 2017 Agreements Filing, including the issues associated with a specific line reconductoring, described below.

### **2.1 Revised 2017 IA**

In its Protest, SVP raised numerous issues with respect to the language included in PG&E's filing of the 2017 IA. In the interest of compromise, the Settling Parties have agreed to the language set forth in the Revised 2017 IA as set forth in Appendix A hereto.

Highlights of certain aspects of the Revised 2017 IA include:

1. Updated definitions section, including removal of the term "Direct Assignment Facilities," modification of the term "Electric System.," and removal of load growth as an example of "Long Term Change to Operations."
2. Removal of a prefatory paragraph in the section on "Interconnections."
3. Removal of a provision which would have added the four endpoints of two PG&E owned lines extending between SVP's Northern Receiving Station ("NRS") and SVP's Scott Receiving Station ("SRS") as Points of Interconnection.

4. A revised “Planning Process” section which more accurately reflects the information (load forecast data) SVP and PG&E are to provide to each other, and the use of such information for transmission planning purposes.
5. Revisions to clarify the circumstances and timing of providing Notification of a Significant Regulatory or Operational Change.
6. Revisions to the process for studying a Significant Operational Change, including determination of need for such studies, the responsibility for costs of such studies, the obligation to cooperate to complete such studies in a timely manner, and how disputes shall be resolved.
7. Addition of language to clarify that SVP’s load growth is not a Significant Operational Change that can result in causing an Adverse Impact, as defined in the Revised 2017 IA, and that PG&E shall pay for all Upgrade Facilities and System Reinforcements required on PG&E’s Electric System due to load growth within or on SVP’s Electric System.
8. Related to (3) above, removal of the four endpoints of the NRS-SRS lines from the list of Points of Interconnection in Appendix A.

## 2.2 **NRS-SRS No. 2 Reconductoring Project**

In addition to the language of the filed 2017 IA, an additional issue that was in dispute with respect to the 2017 Agreements Filing was cost responsibility for the reconductoring of a 2.1 mile, 115 kV transmission line owned by PG&E, but geographically located within SVP’s system, which runs between SVP’s Northern Receiving Station (“NRS”) and SVP’s Scott Receiving Station (“SRS”). This line is known as the NRS-SRS No. 2 line. As a compromise for purposes of settlement, the

Settling Parties have agreed that PG&E will complete the reconductoring of the NRS-SRS No. 2 line, as follows:

2.2.1 SVP agrees to transmit \$3,000,000.00 to PG&E, which includes (1) a negotiated sum of \$1,816,895.68 related to the reconductoring costs of the NRS-SRS No. 2 line, and (2) a negotiated sum of \$1,183,104.32 that constitutes an Equivalent One-Time Charge in lieu of monthly Cost of Ownership Charges for the NRS-SRS No. 2 Reconductoring Project.

2.2.2 Additionally, there is a second 2.1 mile, 115 kV line owned by PG&E in the same transmission corridor, also geographically located within SVP's system, which runs in parallel to the NRS-SRS No. 2 line, known as the NRS-SRS No. 1 line. As approved in the CAISO's 2012-2013 Transmission Planning Process, the NRS-SRS No. 1 line is also scheduled to be reductedored. Although cost responsibility for the NRS-SRS No. 1 Reconductoring Project was not at issue in the instant proceeding, for avoidance of doubt the Settling Parties agree that (1) the NRS-SRS No. 1 Reconductoring Project will be completed on the same schedule as the NRS-SRS No. 2 Reconductoring Project (during the construction of the two Projects, it is expected that one line will be remain energized.); and (2) PG&E is responsible for the costs associated with the NRS-SRS No. 1 Reconductoring Project. PG&E's costs associated with the NRS-SRS No. 1 and No. 2 Reconductoring Project, net of the \$3,000,000 paid by SVP toward the NRS-SRS No. 2 Reconductoring Project, will be reflected in PG&E's Transmission Revenue Requirement.

2.2.3 PG&E agrees to use best efforts to commence working on NRS-SRS No. 1 Reconductoring Project and NRS-SRS No. 2 Reconductoring Project on or before

January 1, 2019 and complete work no later than March 29, 2019 subject to the following conditions: PG&E receives approval of its “Notice of Construction” from the California Public Utilities Commission (“CPUC”) by December 1, 2018 (PG&E expects to file the required advice letter no later than July 11, 2018), and PG&E receives all required permits/approvals from Caltrans and Santa Clara County to have the guard structures and netting over the highways set up by the beginning of January, 2019.

**2.3 Additional NRS-SRS No. 1 and No. 2 Settled Issues**

Absent an additional Significant Operational Change to SVP’s system that affects the NRS-SRS No. 1 and/or No. 2 lines:

2.3.1 PG&E agrees not to request that the California Independent System Operator Corporation (“CAISO”) or Commission add new Take Out Points with respect to the NRS-SRS No. 1 and No. 2 lines.

2.3.2 PG&E agrees not to request that the CAISO redesignate the NRS-SRS No. 1 and No. 2 lines as “Direct Assignment Facilities”.

2.3.3 PG&E agrees not to seek an amendment to the Revised 2017 IA to add any of the endpoints of the NRS-SRS No. 1 and No. 2 lines as Points of Interconnection.

**ARTICLE 3: EFFECTIVE DATE**

The Settlement shall become effective upon issuance of a Final Order by the Commission approving the Settlement without modification or condition, or with modification or condition unanimously agreed to by the Settling Parties in accordance with Section 4.4. A Final Order is an order that is not subject to rehearing or judicial review.

## ARTICLE 4: EFFECT OF SETTLEMENT

### 4.1 **Standard of Review**

Absent the mutual agreement of the Parties to a proposed change to this Settlement, the standard of review for unilateral changes to this Settlement proposed by a Settling Party shall be the “public interest” standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956)(“Mobile”); *Fed. Power Comm’n v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956)(“Sierra”); *Morgan Stanley Capital Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527 (2008); and *NRG Power Mktg., LLC v. Maine Pub. Utils. Comm’n*, 558 U.S. 165 (2010), and the standard of review for any changes proposed by a non-Party, or the Commission acting *sua sponte*, shall be the just and reasonable standard of review, *Devon Power LLC*, 134 FERC ¶ 61,208 at P 10 (2011), reh’g denied, 137 FERC ¶ 61,073 (2011), *review dismissed in part and denied in part sub nom. New England Power Generators Ass’n v. FERC*, 707 F.3d 364 (D.C. Cir. 2012).

### 4.2 **Entire Agreement**

This Settlement, including the Appendices, constitutes the entire agreement among the Settling Parties with respect to the subject matter addressed herein, and supersedes any and all prior or contemporaneous representations, agreements, instruments and understandings among them, whether written or oral.

### 4.3 **Non-severability**

It is specifically understood and agreed that the Settlement is an integrated settlement and that the various parts hereof are not severable without upsetting the balance of considerations achieved between the Settling Parties. The Settling Parties

shall not be bound to any undertaking herein unless this Settlement becomes effective pursuant to the terms of Article 3 hereof.

4.4 **Effect of Non-Approval**

If the Commission does not issue an order approving the Settlement without modification or condition, or issues an order with modification or condition not unanimously agreed to by the Settling Parties, the Settlement shall be deemed withdrawn and shall not constitute any part of the record in these dockets or be used for any other purpose.

4.5 **No Precedential Effect**

It is specifically understood and agreed that the Settlement represents a compromise resolution with respect to the various matters addressed herein, for the sole purpose of the resolution of the matters agreed to herein. Neither of the Settling Parties, NCPA, the Commission, its Staff, or any other person shall be prejudiced or bound hereby in any proceeding except as specifically provided herein. None of the Commission, its Staff, a Settling Party, NCPA nor any other person shall be deemed to have approved, accepted, agreed or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for herein. No Party is waiving its litigation rights and positions in the event the Settlement does not become effective.

4.6 **Privilege and Confidentiality**

The Settlement is submitted pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, and it is agreed that all discussions and communications leading to the Settlement, are, and shall remain, privileged pursuant to Rule 606 and shall not be

admissible in evidence in any process or proceeding for use against any Settling Party. SVP's agreement to pay the settled amount of \$3,000,000.00 shall not be construed as an admission as to which Settling Party is responsible for the costs of reconductoring the NRS-SRS No. 2 line, and is neither admissible in evidence or otherwise eligible to be presented in any process or proceeding.

**4.7 PG&E to Withdraw Request for Rehearing**

In consideration of the fact that the Settling Parties have settled all issues with respect to the instant proceedings, PG&E has agreed to withdraw its pending Request for Rehearing in these proceedings as moot.

IN WITNESS THEREOF, the Parties have, by signature of their duly authorized representative(s) shown below, caused this Agreement to be executed on the date(s) set forth below, but effective as set forth above.

PACIFIC GAS AND ELECTRIC  
COMPANY

CITY OF SANTA CLARA, CALIFORNIA  
d/b/a SILICON VALLEY POWER

By: \_\_\_\_\_  
DAVID GABBARD  
Senior Director  
Transmission Asset Management  
Pacific Gas and Electric Company

By: \_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Lisa S. Gast  
Duncan, Weinberg, Genzer & Pembroke, P.C.  
Suite 800  
Washington, D.C 20036

By: \_\_\_\_\_  
BRIAN DOYLE  
City Attorney

ATTEST:

\_\_\_\_\_  
JENNIFER YAMAGUMA  
Interim City Clerk

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this \_\_\_ day of June, 2018.

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**APPENDIX A**  
**Revised 2017 IA**