

1 [Settlement of Claims]

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3 **Ordinance authorizing settlement of a claim filed by Pacific Gas & Electric Company**  
4 **(PG&E) against the City and County of San Francisco (City) and a complaint filed by the**  
5 **City against PG&E. PG&E's claim was filed on April 9, 2004, in the United States**  
6 **Bankruptcy Court and amended on June 1 and June 11, 2004, Case No. 01-30923-DM,**  
7 **Adversary Proceeding No. 04-3071. The City's complaint against PG&E was filed on**  
8 **June 29, 2005 at the Federal Energy Regulatory Commission, Docket No. EL05-133-000.**  
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10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The City Attorney and the General Manager of the Public Utilities  
12 Commission are hereby authorized to settle *Pacific Gas and Electric Company v. City and*  
13 *County of San Francisco*; U.S. Bankruptcy Court, Northern District of California, Case No. 01-  
14 30923-DM; Adv. Proc. No. 04-3071 and *City and County of San Francisco v. Pacific Gas and*  
15 *Electric Company*, Federal Energy Regulatory Commission, Docket No. EL05-133-000,  
16 according to the terms set forth in the Settlement Agreement, CCSF Billing Mediation, dated  
17 October 7, 2005, which is on file with the Clerk of the Board of Supervisors in File No.  
18 and declared to be a part of this ordinance as if fully set forth herein. If approved by the Board  
19 of Supervisors, the settlement will be submitted to the FERC for final approval.

20 Section 2. Background to the Settlement.

21 (a) On June 11 2004, PG&E filed an adversary claim against the City in the  
22 Bankruptcy Court seeking to force the City to pay a \$28 million dollar bill related to the  
23 delivery of City electricity to City facilities under a 1987 contract between PG&E and the City.  
24 PG&E claimed the bill resulted from "billing errors" over the period July 2000 through  
25 December 2003. The City had already paid \$47 million to PG&E for service during that period

1 of time. PG&E attempted to force the City to resolve the claim through binding arbitration  
2 under the 1987 contract, successfully moving the Bankruptcy Court to issue an order on April  
3 11, 2005 compelling the City to arbitrate the claim.

4 (b) The City disputed the claim and opposed arbitration of the claim. On April 22,  
5 2005, the City appealed the Bankruptcy Court order and requested a stay of the arbitration  
6 order pending the appeal. On June 29, 2005, the City filed a complaint with FERC requesting  
7 that FERC enjoin PG&E from arbitrating the \$28 million claim and order PG&E to withdraw the  
8 \$28 million claim. The City further requested FERC review of PG&E's interpretation of various  
9 terms of the 1987 contract and a refund of overcharges by PG&E of at least \$1.3 million  
10 during the same time period.

11 (c) On July 25, 2005, the City and PG&E agreed to participate in non-binding early  
12 neutral evaluation and mediation of these matters in an effort to resolve the dispute. As a  
13 result of those efforts, the parties reached the Settlement Agreement on October 7, 2005.

14 Section 3. The terms of the settlement are set forth in the above referenced Settlement  
15 Agreement. The key provisions are as follows:

16 (a) The City will pay PG&E \$0 for the \$28 million claim, and PG&E will pay the City \$0  
17 for the City's claim of overcharges of at least \$1.3 million. The City and PG&E agree that all  
18 bills for service in September 2005 and earlier will be deemed final.

19 (b) The City and PG&E agree to a compromise on the amount of energy in the City's  
20 electricity banking accounts and to procedures for using those accounts during the October  
21 2005 through August 2007 time period.

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1           (c) The City and PG&E will resolve several ongoing accounting and operational  
2 disputes as described in the Settlement Agreement, for the time period October 2005 through  
3 August 2007.

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5 APPROVED AS TO FORM AND  
6 RECOMMENDED:

RECOMMENDED:

7 DENNIS J. HERRERA  
8 City Attorney

SUSAN LEAL  
General Manager

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10 Theresa L. Mueller  
Deputy City Attorney

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Public Utilities Commission

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