

File No. 231246

Committee Item No. 5

Board Item No. 9

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight

Date: January 18, 2024

Board of Supervisors Meeting:

Date: January 30, 2024

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- SFPUC Resolution No.23-0203 111423
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Prepared by: Monique Crayton

Date: January 11, 2024

Prepared by: \_\_\_\_\_

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

Prepared by: \_\_\_\_\_

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

1 [Settlement of Lawsuit - Pacific Gas & Electric Co. - Power Connections]

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3 **Ordinance authorizing settlement of the complaint of the City and County of San**  
4 **Francisco (City) against Pacific Gas & Electric Co. (PG&E) that was filed by the City on**  
5 **January 28, 2019, before the Federal Energy Regulatory Commission, Docket No.**  
6 **EL19-38; entitled City and County of San Francisco v. Pacific Gas & Electric Co.; the**  
7 **complaint concerns PG&E’s imposition of unreasonable restrictions on connections of**  
8 **City facilities to PG&E’s distribution system; the material terms of the settlement are**  
9 **that, in exchange for the City dismissing its complaint and waiving any claim for**  
10 **monetary relief, PG&E will allow the City to connect 30 megawatts of metered**  
11 **secondary voltage load over the next five years, provided the loads will be used to**  
12 **serve 1) existing points of delivery that undergo changes, 2) City departments or**  
13 **related public entities, or 3) private entities using City-owned property.**

14  
15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby  
17 authorizes the City Attorney and the Public Utilities Commission to settle the action entitled  
18 *City and County of San Francisco v. Pacific Gas and Electric Co.*, Federal Energy Regulatory  
19 Commission (FERC) Docket No. EL19-38.

20 Section 2. The above-named matter was filed by the City and County of San Francisco  
21 (City) against Pacific Gas and Electric Co. (PG&E) at the FERC, on January 28, 2019.

22 Section 3. Key terms of the settlement include:

- 23 • The City would dismiss the complaint permanently and waive any claims for monetary  
24 damages arising from the complaint.

- 1 • During the five years following the settlement, PG&E would allow the City to connect up  
2 to thirty megawatts (MWs) of metered secondary voltage load, so long as each load is  
3 within one of the following categories:
  - 4 ○ existing secondary service customers that expand or otherwise change electric  
5 service; or
  - 6 ○ City departments or related public entities; or
  - 7 ○ private entities on City property, but this category is limited to a maximum of five  
8 megawatts of the thirty MW total.

9 Section 4. On November 14, 2023, the Public Utilities Commission approved the  
10 settlement in Resolution No. 23-0203 on file with the Clerk of the Board of Supervisors in File  
11 No. 231246. If approved by the Board of Supervisors, the settlement will be submitted to the  
12 FERC for approval.

13 Section 5. The Board of Supervisors approves the settlement and authorizes the  
14 General Manager of the Public Utilities Commission to execute such documents as may be  
15 necessary to effectuate the settlement approved herein, to enter into any amendments or  
16 modifications to such documents that the General Manager determines, in consultation with  
17 the City Attorney, are in the best interest of the City; do not materially increase the obligations  
18 or liabilities of the City or materially diminish the benefits to the City, are necessary or  
19 advisable to effectuate the purposes and intent of this ordinance; and are in compliance with  
20 all applicable laws, including the City Charter.

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APPROVED AS TO FORM AND  
RECOMMENDED:

DAVID CHIU  
City Attorney

/s/

\_\_\_\_\_  
THERESA L. MUELLER  
Chief Energy and Telecommunications  
Deputy

RECOMMENDED:

PUBLIC UTILITIES COMMISSION

/s/

\_\_\_\_\_  
DENNIS J. HERRERA  
General Manager

APPROVED:

PUBLIC UTILITIES COMMISSION

/s/

\_\_\_\_\_  
DONNA HOOD  
Secretary

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# **PUBLIC UTILITIES COMMISSION**

City and County of San Francisco

RESOLUTION NO. 23-0203

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has jurisdiction over and operates and maintains the City and County of San Francisco (City) municipal electric distribution and service facilities; and

WHEREAS, Hetch Hetchy Power provides electric service to City departments; and

WHEREAS, The vast majority of Hetch Hetchy Power customers are small loads that can take service at secondary voltage levels; and

WHEREAS, In 2017, PG&E started refusing to allow the City to take service at secondary voltages unless the loads were under 75 kilowatts (kW). Typically, PG&E will connect its own retail loads that are up to 3 megawatts (MW) at secondary voltages; and

WHEREAS, In 2019, the City filed a complaint against PG&E with the Federal Energy Regulatory Commission (FERC) in which the City alleged that PG&E consistently refused to allow the City to interconnect its customers at secondary voltage unless the total electricity demand was less than 75 kW. The City alleged that PG&E refused to allow the City to take secondary voltage service for some 30 MWs of City load; and

WHEREAS, FERC denied the City's complaint without a hearing; and

WHEREAS, The City requested rehearing, which FERC denied. Then the City appealed FERC's decision to the United States Court of Appeals for the D.C. Circuit. On appeal, the court overturned FERC's denial of the complaint. The court vacated FERC's order and remanded the matter to FERC for further proceedings; and

WHEREAS, On remand from the D.C. Circuit, FERC granted San Francisco's complaint and ordered the matter be set for hearing and settlement procedures before a FERC Administrative Law Judge; and

WHEREAS, The City and PG&E have agreed to settle this matter. In exchange for the City dismissing its complaint and waiving any claim for monetary relief, PG&E has agreed to allow the City to interconnect 30 megawatts of secondary voltage service over the next five years. The loads must be metered and in one of the following categories: (1) existing points of delivery interconnected to PG&E at secondary voltage that undergo changes (e.g., an increase in electric demand or other change in electric service), (2) City departments or related public entities, or (3) private entities using City-owned property. Only 5 MWs of the 30 MW cap may be used to serve private entities on City-owned property; and

WHEREAS, Pursuant to San Francisco Administrative Code section 10.24, the Board of Supervisors must approve the settlement of this claim; and

WHEREAS, This action does not constitute a "project" under the California Environmental Quality Act (CEQA) Guidelines Section 15378(a) because there would be no physical change in the environment; and

WHEREAS, The settlement must also be approved by the FERC; now, therefore, be it

RESOLVED, That this Commission finds that the terms of the settlement are reasonable and will benefit the San Francisco Public Utilities Commission and City departments that are its customers; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager to seek Board of Supervisors approval of the settlement; and be it

FURTHER RESOLVED, That, upon approval of the Board of Supervisors, this Commission hereby authorizes the General Manager to execute such documents that may be necessary to effectuate the settlement approved herein, to enter into any amendments or modifications to the such documents that the General Manager determines, in consultation with the City Attorney, are in the best interest of the City; do not materially increase the obligations or liabilities of the City or materially diminish the benefits to the City; are necessary or advisable to effectuate the purposes and intent of the resolution; and are in compliance with all applicable laws, including the City Charter; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager to work with PG&E to obtain any required approval of the settlement from FERC that is necessary under federal law.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of November 14, 2023.*

  
Secretary, Public Utilities Commission