STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
8-02-16
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August 2, 2016

Agenda ID #15071
Adjudicatory

TO PARTIES OF RECORD IN CASE 16-02-005:

This is the proposed decision of Administrative Law Judge Michelle Cooke. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 15, 2016 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:lil

Attachment

Decision **PROPOSED DECISION OF ALJ COOKE** (Mailed 8/2/2016)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

POWERTREE ENERGY SERVICES, INC., Complainant, vs. PACIFIC GAS AND ELECTRIC COMPANY (U39E), Defendant.	Case 16-02-005 (Filed February 5, 2016)

DECISION DISMISSING COMPLAINT OF POWERTREE ENERGY SERVICES, INC. WITHOUT PREJUDICE

Summary

The complaint of Powertree Energy Services, Inc. is dismissed without prejudice.

Background

Powertree Energy Services, Inc. (Powertree) develops combined solar photovoltaic, storage, and electric vehicle charging projects at multi-unit dwellings. Powertree holds a number of reservations of capacity under the Pacific Gas and Electric Company (PG&E) Self-Generation Incentive Program (SGIP).

Powertree filed this complaint against PG&E on February 5, 2016. Powertree's stated purpose of the complaint was to request an injunction or temporary restraining order to stay expiration of SGIP claim filing deadlines for its customer-sited projects until such time as Powertree and PG&E complete the Rule 21 interconnection process for each project and PG&E approves SGIP payment claims. Instructions to Answer the complaint were issued February 19, 2016. PG&E filed its Answer on March 21, 2016.

Meanwhile in Rulemaking (R.) 12-11-005, also on February 5, 2016, Powertree filed and served a petition for modification of Decision (D.) 15-06-002 (Powertree Petition), a decision that granted a request from the SGIP program administrators to allow projects receiving conditional reservations up to three six-month extensions for SGIP to complete all construction before losing the SGIP incentive. In its petition, Powertree requested the Commission direct the SGIP program administrators to extend project completion deadlines until incentive claim payments are made when the cause of delay in meeting deadlines is deemed to be unavoidable interconnection issues. Powertree's petition for modification was resolved in D.16-06-055. Rather than the indefinite extension requested by Powertree, D.16-06-055 granted Powertree an extension to complete its projects and submit final incentive claim forms by December 30, 2016 or lose its reservations.

On July 1, 2016, the assigned Administrative Law Judge (ALJ) directed the parties to meet and confer to determine whether the complaint should remain open and to file a response by July 15, 2016 indicating the issues that party believes remain live issues in need of resolution and proposing a schedule for resolving them. Powertree filed a response as directed, indicating its position that the complaint should remain open until the extension granted by

D.16-06-055 is completed at which time it might pursue alleged violations. On July 20, 2016 PG&E filed a reply that opposed keeping the proceeding open without identification of specific violations and the opportunity for PG&E to answer the charges.

Discussion

Powertree's complaint did not assert specific violations of tariff rules, decisions, or other statutory obligations but rather sought injunctive relief. The Commission resolved the issue of injunctive relief through its decision on Powertree's petition for modification in R.12-11-005. PG&E is correct that if Powertree has identified specific violations, its allegations should be presented in either a new or amended complaint affording PG&E the opportunity to answer. It will not be clear whether any alleged violations will affect Powertree's ability to complete its projects until after December 30, 2016, at which point this complaint will be approaching the twelve-month statutory resolution date. If Powertree asserts violations at that time, it would need to file an amended complaint setting forth its specific allegations. Because the original complaint included no such allegations, an amended complaint is effectively a new complaint. For this reason and in light of the statutory deadline to resolve complaints, it is a better use of resources to dismiss the instant complaint at this time without prejudice.

Procedural Issues

On March 17, 2016, Powertree filed a motion to change the legal name on the complaint because it inadvertently listed the complainant's name as Powertree Energy Services, Inc. instead of Powertree Services, Inc. The motion to change the legal name is granted. The new caption of the proceeding is as set

forth in the Conclusions of Law of this decision, and the new caption shall be the caption of this proceeding, going forward.

Categorization and Need for Hearing

The Instructions to Answer determined that the complaint was categorized as Adjudicatory, and preliminarily determined that hearings were needed. This decision confirms the category as Adjudicatory but changes the hearing designation to no hearings are necessary.

Comments on Proposed Decision

The proposed decision of ALJ Cooke in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

Assignment of Proceeding

Michael Picker is the assigned Commissioner and Michelle Cooke is the assigned ALJ in this proceeding.

Findings of Fact

1. Powertree's complaint did not assert specific violations of tariff rules, decisions, or other statutory obligations but rather sought injunctive relief.

2. D.16-06-055 granted Powertree an extension to complete its projects and submit final incentive claim forms by December 30, 2016 or lose its reservations.

Conclusions of Law

1. It will not be clear whether any alleged violations will affect Powertree's ability to complete its projects until after December 30, 2016, at which point this complaint will be approaching the twelve-month statutory resolution date.

2. In light of the statutory deadline to resolve complaints and because Powertree's original complaint did not include allegations of specific violations

of tariff rules, decisions, or other statutory obligations, it is a better use of resources to dismiss the instant complaint without prejudice than to allow an amended complaint.

3. The caption of the complaint should be corrected to POWERTREE SERVICES, INC., formerly known as POWERTREE ENERGY SERVICES, INC., Complainant, vs. PACIFIC GAS AND ELECTRIC COMPANY (U39E), Defendant.

4. Because the complaint is dismissed without prejudice, no hearings are necessary.

O R D E R

IT IS ORDERED that:

1. The caption of the complaint is corrected to POWERTREE SERVICES, INC., formerly known as POWERTREE ENERGY SERVICES, INC., Complainant, vs. PACIFIC GAS AND ELECTRIC COMPANY (U39E), Defendant.

2. The preliminary determination that hearings were needed is changed as hearings were not held in this matter.

3. Case 16-02-005 is dismissed without prejudice.

This order is effective today.

Dated _____, at San Francisco, California.