

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

10-03-16
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In the Matter of the Application of Pacific Gas and Electric Company (U 39 E) for a Certificate of Public Convenience and Necessity for the Contra Costa-Oakley Generating Station 230 kV Transmission Line Pursuant to General Order 131-D

Application 15-06-015
(Filed June 17, 2015)

NOTICE OF EX PARTE COMMUNICATION

Pursuant to Rule 8.4 of the Commission's Rules of Practice and Procedure, Contra Costa Generating Station, LLC ("CCGS") hereby gives notice of a written ex parte communication relating to the above-captioned proceeding.

At 11:51 a.m. on Monday, October 3, 2016, Martin A. Mattes of Nossaman LLP, counsel to CCGS, sent to David Peck, Advisor to Michael Picker, President of the Commission, an electronic message and an attached letter signed by Mr. Mattes and addressed to Mr. Peck, with copies to all persons appearing on the official service list in the above-captioned proceeding, including Administrative Law Judge Regina DeAngelis, at their respective e-mail addresses shown on the Commission's docket card for that proceeding.

Mr. Mattes' letter addressed assertions that he described as "inconsistent with the facts" about the Oakley Generating Station project and the above-captioned application by Pacific Gas and Electric Company for authorization of a generation "tie-line" related to that project in a notice of ex parte communication that was filed with the Commission on

September 23, 2016, by counsel for the Office of Ratepayer Advocates. Copies of Mr. Mattes' electronic message and letter of October 3, 2016, are attached to this notice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin A. Mattes". The signature is fluid and cursive, with the first and last names being more prominent.

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October 3, 2016

Mattes, Martin

From: Mattes, Martin
Sent: Monday, October 03, 2016 11:51 AM
To: 'dbp@cpuc.ca.gov'
Cc: 'nao@cpuc.ca.gov'; 'DTK5@pge.com'; Mattes, Martin; 'stephen.siptroth@cc.cccounty.us'; 'RegRelCPUCcases@pge.com'; 'ddavie@wellhead.com'; 'Douglass@EnergyAttorney.com'; 'Liddell@EnergyAttorney.com'; 'JLLm@pge.com'; Mari Davidson (mdavidson@nossaman.com); 'cem@newsdata.com'; 'Megan.Lawson@pge.com'; 'bryan.bertacchi@radback.com'; 'jim.mclucas@radback.com'; 'clu@cpuc.ca.gov'; 'rmd@cpuc.ca.gov'; 'rp3@cpuc.ca.gov'; Darryl J. Gruen (djg@cpuc.ca.gov)
Subject: A.15-06-015 -- Response to ORA's recent notice of ex parte communication
Attachments: A.15-06-015 letter_001.pdf

Mr. Peck -- Please note the accompanying letter. An ex parte notice respecting this communication will be filed this afternoon with the Commission's Docket Office.

Sincerely yours,

Martin A. Mattes

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BY U.S. MAIL AND ELECTRONIC MAIL

October 3, 2016

David Peck
Advisor to President Michael Picker
California Public Utilities Commission
505 Van Ness Avenue, 5th Floor
San Francisco, CA 94102

Re: A.15-06-015: ORA's Recent Notice of Ex Parte Communication

Dear Mr. Peck:

Pacific Gas and Electric Company ("PG&E") filed the above-referenced application for Commission authorization to construct a 2.4-mile Generation Tie-Line (the "Tie-Line") pursuant to a Large Generator Interconnection Agreement ("LGIA"), that was entered into in 2012 (and amended in 2014) among PG&E, the California Independent System Operator ("CAISO"), and Contra Costa Generating Station, LLC ("CCGS") for interconnection of CCGS's proposed Oakley Generating Station ("Oakley") by means of the Tie-Line. The history and current status of the Oakley project and the reasons supporting construction of the Tie-Line are summarized in CCGS's response to PG&E's application, which CCGS filed July 23, 2015.

Several assertions in ORA's recent notice of ex parte communication and in the hand-out accompanying that notice are inconsistent with the facts about Oakley and the pending Tie-Line application. It is the purpose of this letter to note and correct those inconsistencies.

ORA's notice refers to a Commission decision "denying a Certificate of Public Convenience and Necessity of the Oakley power plant" and alleges that such decision "included denial of a generation tie-in." ORA is in error, because there has been no such decision. The Commission's D.10-07-045, which ORA's handout describes as "the current guiding decision," considered PG&E's request for approval of a Purchase and Sale Agreement ("PSA") with CCGS, under which PG&E sought to 1) acquire the Oakley plant after CCGS completed its construction and demonstrated the plant met the PSA's performance requirements and 2) be allowed to recover the payments to CCGS under cost of service ratemaking principles. D.10-07-045 denied PG&E's request for approval of the PSA, based on a finding that Oakley was "not needed at this time." There was never a request for a CPCN for Oakley, with or without a tie-line and there is no mention of CPCNs in D.10-07-045. In fact, Conclusion of Law No. 1 of the Commission's subsequent D.12-12-035 specified that the proposed PSA for the Oakley plant was not subject to the CPCN requirements of Pub. Util. Code §1001.

Likewise, most of the assertions in ORA's hand-out under the heading, "the Oakley Gen-Tie does not meet CPUC requirements for approval," are inaccurate or at best misleading. The Oakley Generating Station has been approved by the California Energy Commission; what the CPUC disapproved by D.10-07-045 was a PSA for PG&E's acquisition of the Oakley plant and cost recovery from ratepayers, based on circumstances at the time. The CPUC subsequently approved the PSA with PG&E twice, which approvals were annulled by the appellate court on procedural grounds.

ORA's assertion that PG&E has no contractual obligation under the LGIA is false. PG&E has filed the current Tie-Line application in accordance with the LGIA, which is PG&E's FERC-approved Open Access Transmission Tariff obligation. CCGS is actively maintaining its existing entitlements in force and supports approval of the Tie-Line in order to facilitate construction of the Oakley Generating Station. To call the proposed Tie-Line "a line to nowhere" ignores these facts.

Finally, the Court of Appeal decision (*TURN v. PUC* (2014), 223 Cal, App.4th 945), does not bar the Commission from approving the Tie-Line. The court decision reversed the Commission's approval of the PSA, which would have resulted in a substantial increase in PG&E's rate base. Costs for the Tie-Line will not be borne by PG&E, and it will not affect its rate base or its customers' rates.

In summary, D.10-07-045 and the Court of Appeal decision only addressed PG&E's request for the Commission to approve PG&E's purchase of the Oakley plant and cost recovery in rates after CCGS had fully developed, constructed, and demonstrated the performance of the plant. These decisions in no way bar the Commission from approving the Tie-Line. The costs associated with the Tie-Line are solely for the account of CCGS and there is no plausible nexus between D.10-07-045 or the Court of Appeal decision and the Commission's discretion to authorize the Tie-Line. If you wish to discuss any of the topics referenced in this letter, please give me a call at (415) 438-7273, or contact Jim McLucas of CCGS at (925) 570-0835.

Very truly yours,



Martin A. Mattes
of Nossaman LLP

Attorneys for CONTRA COSTA
GENERATING STATION, LLC

cc (by e-mail): Jim McLucas, CCGS
Darryl Gruen, Attorney for ORA
Service List in A.15-06-015