

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**  
10-21-10  
04:59 PM

Application of Pacific Gas and Electric Company for Approval Agreements Related to the Novation of the California Department of Water Resources Agreement with GWF Energy LLC, Power Purchase Agreement with GWF Energy II LLC, and Associated Cost Recovery (U39E).

Application 09-10-022  
(Filed October 16, 2009)

Application of Pacific Gas and Electric Company for Approval of the Novation of the California Department of Water Resources Agreements Related to the Calpine Transaction, and Associated Cost Recovery (U39E).

Application 09-10-034  
(Filed October 30, 2009)

**NOTICE OF EX PARTE COMMUNICATION  
OF THE DIVISION OF RATEPAYER ADVOCATES**

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits this notice of ex parte communication regarding the above-captioned matter.

On Monday, October 18, 2010 at 11:30 a.m., DRA representatives met with Andrew Campbell, advisor to Commissioner Ryan. The meeting was held to discuss PG&E's Petition for Modification of D.10-07-045 regarding the Oakley power plant. DRA's representatives at the meeting were David Peck – Senior Regulatory Analyst, Noel Obiora – Legal Counsel, and Cheryl Cox –DRA Policy Advisor. The meeting was held at the Commission's offices, located at 505 Van Ness Avenue, San Francisco, California and lasted approximately 30 minutes. DRA requested the meeting.

Mr. Peck stated that in D.10-07-045 the Commission ordered that Oakley could only be brought back for consideration under specific conditions via an application.

However, PG&E's Petition for Modification (PFM) does not meet any of the conditions ordered by the Commission.

Mr. Peck noted that PG&E also attempts to mislead the Commission into believing that the PFM guarantees a two year delay in the on-line date of the power plant when it does not. The PFM merely provides the project developer more flexibility for bringing the project on-line.

Mr. Obiora pointed out that Commission reversal of D.10-07-045 would be arbitrary because the decision vested the rights of private parties in the GWF Tracy and Los Esteros proceeding.

Mr. Peck pointed out that with the recent Commission authorizations for PG&E procurement, the Commission approval of the Oakley PFM would represent an over-procurement and re-litigate PG&E's approved need found in the Long Term Procurement Planning (LTPP) Decision. The fact is PG&E has no need for the Oakley project. PG&E's primary concern is to rate base the capital cost of Oakley for the benefit of shareholders, not insuring system reliability for ratepayers. PG&E's service territory is sitting on a 30-40% reserve margin not including 2,300 MW of approved capacity that is being built. There is plenty of time to determine whether there is a need for Oakley in the current LTPP proceeding.

DRA used written materials during the communication, copies of which are attached to this ex parte notice. To receive a copy of this ex parte notice, please contact David Peck at 415-703-1213, or [dbp@cpuc.ca.gov](mailto:dbp@cpuc.ca.gov).

Respectfully submitted,

/s/ NOEL OBIORA

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October 21, 2010

# **ATTACHMENT**



## **PG&E's Petition for Modification of D.10-07-045 Regarding the Oakley Power Plant**

**DRA Position: The Commission should deny PG&E's Petition to Modify (PFM) D.10-07-045 and implement the Oakley project only if the conditions ordered in D.10-07-045 are met.**

### **Background: The Commission rejected the Oakley project in July 2010**

- The Commission approved GWF Tracy and Los Esteros Upgrades in D.10-07-042 on the condition that the Oakley Project was rejected.
- PG&E filed a petition to modify D.10-07-045 requesting the Commission reverse its decision and approve the Oakley project.
- The Commission ordered in D.10-07-045 that the Oakley project could only be proposed again via an application under certain conditions:
  - An approved power plant project fails.
  - PG&E retires a Once Through Cooled (OTC) plant of comparable size 3 years early.
  - Final results of CAISO 33% renewable integration study demonstrates significant negative reliability risk.

### **PG&E has not met any of the conditions required by the Commission to pursue the Oakley project**

- PG&E misleads the Commission that its PFM represents a two year delay in the project.
  - The PFM extends the "guaranteed commercial availability date" which only provides the project developer more flexibility.
  - The PFM attempts to re-litigate PG&E's approved need found in LTPP D.07-12-052.
  - Oakley is not needed in 2016.
  - The Commission cannot reverse a decision that vested the right of private parties in the GWF Tracey and Los Esteros proceeding.
- PG&E's primary motivation seems to be to rate base the capital cost of the Oakley power plant for the benefit of shareholders, not for ensuring system reliability for ratepayers.
  - The revenue requirement for Oakley is greater than \$1.5 billion.
  - PG&E currently has a 40% reserve margin (not including 2,333 MW of approved new capacity: Colusa, Russell City, Mariposa, Marsh Landing, GWF Tracey, Los Esteros).
  - PG&E's load forecast is down and exports are overstated.
  - PG&E's approved need is fulfilled.
  - LTPP proceeding (R.10-05-006) will define where, when, and what types of resources are needed going forward.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day re-served a copy of “**NOTICE OF EX PARTE COMMUNICATION OF THE DIVISION OF RATEPAYER ADVOCATES**” to the official service list in **A.09-10-022 and A.09-10-034** by using the following service:

**E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **October 21, 2010** at San Francisco, California.

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/s/ ALBERT HILL

Albert Hill

**SERVICE LIST**  
**A.09-10-022, et al.**

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