



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Joint Application of Sierra Pacific Power Company (U903E) and California Pacific Electric Company, LLC for Authority to Enter Into Two Agreements.

A.10-04-032
(Filed April 30, 2010)

(PUBLIC VERSION) Joint Application of Sierra Pacific Power Company (U903E) and California Pacific Electric Company, LLC for Transfer of Control and Additional Requests Relating to Proposed Transaction.

A.09-10-028
(Filed October 16, 2009)

PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") files this protest to the above captioned joint application of Sierra Pacific Power Company ("Sierra") and California Pacific Electric Company ("CalPeco") (collectively, "Joint Applicants") for authorization with regard to two agreements ("Auxiliary Application"). Specifically, Joint Applicants request authority for Sierra to enter into a "Fringe Agreement" with Truckee Donner Public Utility District (TDPUD) designed to facilitate the provision of electric distribution service to "Fringe Customers" that are located within each other's service territories. Although CalPeco is not a party to the Fringe Agreement, it seeks authority to have Sierra assign the Fringe Agreement to it upon the Closing of the proposed transaction defined in A.09-10-028. Joint Applicants further request authority for CalPeco to enter into a "Reliability Support Agreement" ("RSA") to allow Sierra to use a small amount of capacity on a portion of one of

CalPeco's distribution lines following the Closing. Joint Applicants state that the two agreements are related to an earlier application (A.09-10-028) in which Joint Applicants have sought authority to transfer to CalPeco control of the assets and operations comprising of the California electric distribution system and the Kings Beach Generation Facility owned and operated by Sierra (the "California Utility"). This application first appeared on the Commission's Daily Calendar on May 4, 2010. Pursuant to Rule 2.6(a), this protest is timely filed.

DRA filed a protest to the underlying application A.09-10-028. On May 7, 2010, DRA filed its Report recommending that the Commission deny the transaction. Although DRA does not identify any specific issues with respect to either agreement in the Auxiliary Application, to the extent approval of the Reliability Support Agreement and CalPeco's takeover of the Fringe Agreement is contingent upon the approval of A.09-10-028, DRA's request for denial of A.09-10-028 necessarily includes a request for denial of the RSA and denial of the request for CalPeco to take over implementation of the Fringe Agreement upon Closing of the proposed underlying transaction. Joint Applicants state that while the Fringe Agreement is related to the proposed transaction, Sierra requests that the Commission approve the Fringe Agreement even in the event the Commission decides not to approve the proposed transaction, or the proposed transaction fails to be completed for some other reason. DRA takes no position on this request.

II. DISCUSSION

Joint Applicants filed application A.09-10-028 on October 16, 2009, seeking authorization to sell Sierra's California Utility assets to CalPeco. In connection with the grant of authority to transfer control, Joint Applicants also requested approval for certain actions and agreements they claim are ancillary to, and necessary for the completion of, the transaction. DRA filed a protest to A.09-10-028 in which it identified a number of issues it had concerns with, and stated that it would submit a report with a summary of its findings and recommendations. DRA submitted a Report in that proceeding on May 7, 2010, in which it recommended that the Commission reject the application as it was not in the ratepayers' interest.

Joint Applicants filed the instant Auxiliary Application on April 30, 2010. Joint Applicants filed a concurrent motion to consolidate this application with A.09-10-028 and have it placed on the same schedule for consideration as A.09-10-028. On May 17, 2010, DRA filed a response to that motion, stating that while it did not object to consolidation, it could not agree to have the Auxiliary Application put on the same schedule as A.09-10-028 until it had a chance to fully review the Auxiliary Application. DRA stated that it would further comment on the schedule in its response to A.10-04-032. On May 27, 2010, Assigned Administrative Law Judge (“ALJ”) Jean Vieth sent an email to the parties in which she granted the motion in part and ordered consolidation of the two applications. ALJ Vieth stated that she expected to establish a timeline for resolving A.10-04-032 prior to the commencement of evidentiary hearings in A.09-10-028 on June 16, 2010.

DRA has reviewed the Auxiliary Application and two agreements attached thereto and has not identified any specific issues which warrant further review or discovery. However, as the Auxiliary Application has been consolidated with A.09-10-028, and as approval of the RSA is contingent upon the approval of A.09-10-028, DRA’s recommendation that the Commission reject A.09-10-028 would necessarily include rejection of the RSA. DRA similarly requests that the Commission reject the application to the extent it seeks authorization for CalPeco to take over implementation of the Fringe Agreement upon Closing of the underlying proposed transaction. DRA files this protest simply to preserve its continued protest and request for denial of A.09-10-028. Joint Applicants state that while the Fringe Agreement is related to the proposed transaction, Sierra further requests that the Commission approve the Fringe Agreement even in the event the Commission decides not to approve the proposed transaction, or the proposed transaction fails to be completed for some other reason. DRA takes no position on this request.

As DRA does not believe it needs to conduct discovery on or further review of the RSA (or the Fringe Agreement), DRA does not object to Joint Applicants’ request to place A.10-04-032 on the same timeline as A.09-10-028 for resolution.

III. CONCLUSION

For the reasons discussed above, DRA requests that the Commission reject the application to the extent it seeks authorization for CalPeco to enter into the Reliability Support Agreement and for CalPeco to take over implementation of the Fringe Agreement upon Closing of the underlying proposed transaction in A.09-10-028. DRA takes no position on the request to allow Sierra to enter into the Fringe Agreement even in the event the Commission decides not to approve the proposed transaction in A.09-10-028. DRA further has no objections to considering A.10-04-032 on the same timeline as A.09-10-028.

Respectfully submitted,

/s/ KIMBERLY J. LIPPI

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June 3, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document **“PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES”** in **A.10-04-032** and **A.09-10-028**.

A copy has been e-mailed on all known parties of record who have provided e-mail addresses. In addition, all parties have been served by first-class mail.

Executed in San Francisco, California, on the 4th day of June, 2010.

/s/ ALBERT HILL

ALBERT HILL

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A.10-04-032 and A.09-10-028

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