

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING REPLIES FROM PACIFIC GAS AND
ELECTRIC COMPANY, CALPINE COMPANY AND INTERVENORS**

On January 3, 2006, a draft decision (DD) was circulated that would authorize Pacific Gas and Electric Company (PG&E) to purchase and deliver gas, if needed for electric and gas system reliability purposes, to supply generating units operating under California Independent System Operator (CAISO) reliability must-run (RMR) contracts with Calpine Company (Calpine) and its affiliates, and would authorize PG&E to recover from its ratepayers the costs associated with these activities.

This DD was in response to a motion filed by PG&E on December 15, 2005, seeking such authorization due to the utility's concerns about Calpine's financial situation. Calpine owns and operates several power plants in California, including a number in PG&E's service territory, and PG&E was worried about Calpine's ability to secure and deliver the gas supplies necessary to run the plants. Some of these plants are designated by the CAISO as RMR plants and if they cannot operate when needed, PG&E claims its local reliability could be in jeopardy.

On December 20, 2005, Calpine filed for Chapter 11 bankruptcy court protection. Since then the bankruptcy court has granted Calpine emergency approval to continue its trading operation, which buys gas for its generation units, and Calpine has secured some Debot-in-Possession financing to maintain its operations.

On January 9, 2006, PG&E and Calpine filed comments to the DD. Calpine raised a number of points in its response that the Commission would like PG&E, and any other interested party, to address in reply comments. The Commission also would like Calpine to reply to an issue raised by PG&E. Reply comments are due January 23, 2006.

In particular, the Commission is seeking suggestions on how to give PG&E the tools that it may need to safeguard its electric and gas system reliability and resource adequacy. While the Commission does not presently see any situation that would require PG&E to intervene in Calpine's operation of its Northern California plants, the Commission wants to foresightedly act now, rather than waiting for a reliability or resource problem to develop.

The Commission directs PG&E to discuss why, given the change in circumstances concerning Calpine's situation since PG&E filed its motion on December 15, 2005, the utility still need this contingent authority, and if so under what precise circumstances. In particular, PG&E is to identify what would be the events that would trigger this authorization. In addition, if PG&E is given these tools, the Commission wants proposals from stakeholders on how to feasibly narrow the authority so that Calpine's concerns can also be satisfied. In addition to crafting limits or guidelines to the authority granted PG&E, the Commission also seeks comments on the proposed waiver of PG&E's Gas Rule 26D as it

related to confidential Calpine specific customer information and ways to limit the timing and extent of the dissemination of the information.

Calpine is also requested to address: Calpine's limited Debtor-in-Possession financing and the fact that it is currently scheduled to end February 8, 2006, and what contingency plans does Calpine have going forward after that date.

IT IS RULED that Pacific Gas and Electric Company, Calpine Company and any other interested intervenors, may file reply comments on the draft decision by January 23, 2006.

Dated January 18, 2006, at San Francisco, California.

 /s/ CAROL BROWN
Carol Brown
Administrative Law Judge

