

Mailed

SEP 9 1991

Decision 91-09-003 September 6, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application for an
expedited order approving
amendments to two standard
offer power purchase agreements.

ORIGINAL

Application 90-08-039
(Filed August 17, 1990)

ORDER OF DISMISSAL

The "Joint Application for Approval of Governing Agreement" (Application) was filed on August 17, 1990 on behalf of Pacific Gas and Electric Company and American Cogen Technology, Inc., O'Brien Energy Systems, Inc., and O'Brien California Cogen II Limited.

A Motion to Suspend was filed by the parties on September 14, 1990. The Motion alleged that since the filing of the Application, events have transpired which require either the amendment or withdrawal of the Application.

By Administrative Law Judge's Ruling (ALJ Ruling) dated March 1, 1991, the assigned ALJ granted the parties' request for an order allowing suspension of the application. However, the ALJ ruled that within 60 days, the parties should either file an amended application or file a motion to explain the reason for delay and propose an alternate deadline for amending the application. The ALJ ruled that if neither is filed, then the application would be dismissed.

The 60-day period expired May 1, 1991. No filing was made. The application should be dismissed due to the applicants' failure to proceed as directed by the administrative law judge.

Findings of Fact

1. The applicants have requested the suspension of the application.
2. The assigned administrative law judge granted the request for suspension and required the parties to file within 60 days either an amended application or a request for alternate deadline.
3. The applicants made no filing within the 60-day period.
4. There is no reason to delay the effective date of this order, since the applicants have not indicated any interest in filing an amended application after the expiration of the deadline for filing.

Conclusion of Law

The application should be dismissed, without prejudice.

Therefore, IT IS ORDERED that:

Application 90-08-039 is dismissed, due to the applicants' failure to prosecute, and without prejudice to a subsequent application for approval of a governing agreement between the applicants.

This order is effective today.

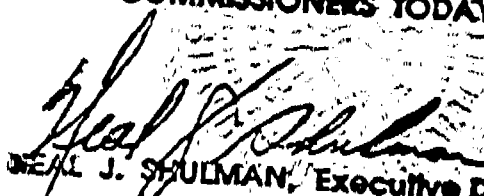
Dated September 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

I abstain.

/s/ G. MITCHELL WILK
Commissioner

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


DANIEL J. SHULMAN, Executive Director