

From: Redacted
Sent: 1/29/2010 2:04:48 PM
To: Simon, Sean A. (SVN@cpuc.ca.gov)
Cc: Allen, Meredith (/O=PG&E/OU=Corporate/cn=Recipients/cn=MEAe)
Bcc:
Subject: Agua Caliente

Sean,

Meredith said you were looking for the contract language that addressed reimbursement for transmission upgrades. It is Section 4.1b, page 45 of the PPA. The PPA provides that the Seller would invoice us for the costs.

Redacted

(b) Contract Price Adjustment for Transmission Upgrade Costs. Seller shall be obligated to maintain at its sole expense the Interconnection Facilities, including metering facilities, for which Seller is responsible under the LGIA, but shall have no obligations, except as set forth in this Section 4.1(b), for Transmission Upgrades. Seller shall, prior to the later of July 31, 2009 or five (5) days after the Execution Date, submit an interconnection request with CAISO for the Initial Contract Capacity seeking Full Capacity Deliverability Status (as defined in the CAISO Tariff) for the Project. Seller shall forward to Buyer within three (3) Business Days of receipt from CAISO a copy of the Phase I Study (or such other study as provided by CAISO in response to Seller's interconnection request) prepared by CAISO in connection with the interconnection request. Within thirty (30) days after receiving the Phase I Study, Buyer shall provide Notice to Seller as to whether Buyer wishes to proceed with the Transmission Upgrades or abandon the Transmission Upgrades and accept that the Generating Facility may not qualify for Full Capacity Deliverability Status.

(i) If Buyer timely provides Notice that it wishes to proceed with the Transmission Upgrades and the CAISO's Phase I Study caps Seller's obligation for Transmission Upgrades at fifty million dollars (\$50,000,000) or less, (A) Seller shall (I) pursue the timely negotiation and execution of the LGIA and be obligated for all Transmission Upgrade costs pursuant to the LGIA and compliance with CAISO's requirements for pursuing the Transmission Upgrades, including posting any required security and funding of the Transmission Upgrades (II) waive confidentiality vis-à-vis Buyer with respect to communications with the CAISO and the Participating Transmission Owners regarding the Transmission Upgrades and negotiation of the LGIA and (III) promptly provide Buyer with copies of all material correspondence between or among the Seller, CAISO and the Participating Transmission Owners related to the Transmission Upgrades and the negotiation of the LGIA; (B) within fifteen (15) days of the date on which Seller and its Affiliates under this Agreement, or under one or more Phase PPAs, if any, achieve Commercial Operation, in the aggregate, of at least one hundred forty-five (145) MW, Seller shall (I) take all necessary actions, including compliance with all applicable provisions of the CAISO Tariff and the LGIA, to assign irrevocably (subject only to Buyer's compliance with its obligations under this Section 4.1(b)) to Buyer the rights to repayment of

any and all refunds or credits by the CAISO or the Participating Transmission Owners performing the Transmission Upgrades to which Seller would be entitled absent assignment to PG&E and deliver to Buyer documentation demonstrating to Buyer's reasonable satisfaction that Seller has assigned to Buyer the repayment rights for Transmission Upgrades pursuant to this subsection 4.1(b)(i)(B)(I); and (II) invoice Buyer (invoice shall include documentation of all costs and expenses), for the following costs and expenses incurred by Seller in connection with the interconnection request and pursuit of the Transmission Upgrades: (1) the interconnection request application fee, (2) the cost of any security posted, such as Letter of Credit fees and Cash Collateralization Costs, (3) the funds provided to CAISO or a Participating Transmission Owner for the costs of the Transmission Upgrades, and (4) any other reasonable direct costs incurred by Seller to advance the LGIP process and respond to the Phase II Study, (such costs and expenses, collectively, the "Transmission Upgrades Costs"), plus interest on the monthly cumulative balance of Transmission Upgrade Costs (not including Cash Collateralization Costs) at a monthly rate equal to 0.9167%; (C) Upon receipt of Seller's Notice, and upon compliance by Seller with Section 4.1(b)(i)(B)(I), Buyer shall pay all amounts that are due under this Section 4.1(b) (provided that Buyer reserves the right to dispute Seller's compliance with this Section 4.1(b) and withhold associated disputed amounts pursuant to Section 6.2) to Seller within thirty (30) days; (D) Seller shall invoice Buyer monthly, and Buyer shall pay within fifteen (15) days of receiving Seller's invoice, for any continuing Transmission Upgrade Costs that are due under this Section 4.1(b) (provided that Buyer reserves the right to dispute Seller's compliance with this Section 4.1(b) and withhold associated disputed amounts pursuant to Section 6.2). For clarity, if Seller and its Affiliates under this Agreement, or under one or more Phase PPAs, if any, do not achieve Commercial Operation, in the aggregate, of at least one hundred forty-five (145) MW, Buyer shall have no obligations with respect to pursuit of, or payment of any costs and expenses related to, Transmission Upgrades.