

From: Lee, Cheryl
Sent: 4/20/2010 11:32:07 AM
To: Allen, Meredith (/O=PG&E/OU=Corporate/cn=Recipients/cn=MEAe)
Cc: Simon, Sean A. (sean.simon@cpuc.ca.gov)
Bcc:
Subject: RE: Vantage PPA: Finding 13

Meredith,

Below is our finding based on your latest proposed language:

14. The Vantage project's failure to be RPS-eligible due to a change in law regarding delivery rules shall not, in this instance, be deemed a breach of Standard Term and Condition 6 and shall not require the exercise of commercially reasonable efforts by Vantage to become RPS-eligible.

From: Allen, Meredith [mailto:MEAe@pge.com]

Sent: Monday, April 19, 2010 5:39 PM

To: Bone, Traci

Cc: Simon, Sean A.; Lee, Cheryl; [Redacted]

Subject: RE: Vantage PPA: Finding 13

Traci,

Also, below is alternative proposed language to address the particular issue raised by the Vantage PPA. It would be a separate finding that follows the current cost recovery finding in the draft resolution. We tried to clarify to address your question 2.

Please call me at [Redacted] if you have questions or would like to discuss.

Thanks,
Meredith

Given the delivery structure for the Vantage PPA in which the seller is not responsible for delivery into California and STC 6 is only applicable to the seller, the costs associated with the Vantage PPA including any firming and shaping costs shall be fully recoverable in rates notwithstanding a change in law affecting delivery, subject to Commission review of PG&E's administration of the PPA.

From: Allen, Meredith

Sent: Monday, April 19, 2010 4:46 PM

To: 'Bone, Traci'
Cc: Simon, Sean A.; Lee, Cheryl; [Redacted]
Subject: RE: Vantage PPA: Finding 13

Traci,

The answer to the first question is PU Code 454.5(c).

On the second question, we are concerned that the change in law for delivery is not covered by the current language for contracts in which the seller is not delivering the power to California. In that situation, the current language raises a gray area. A seller may not be responsible for taking commercially reasonable efforts to address a change in law on delivery, if that seller does not have the obligation to deliver the power. In that case, the seller may not have an obligation to comply with STC 6 and therefore, the reference to STC 6 does not resolve the issue.

This particular situation is raised by the delivery structure for Vantage. We tried to address this change in law issue by stating that the CPUC's intent is not to deny the utility cost recovery, if the delivery rules change.

I hope this clarifies our concern. Please let me know if you need additional information. I can be reached on my cell phone [Redacted] to discuss.

Thanks,

Meredith

From: Bone, Traci [mailto:traci.bone@cpuc.ca.gov]
Sent: Monday, April 19, 2010 10:11 AM
To: Allen, Meredith
Cc: Simon, Sean A.; Lee, Cheryl; [Redacted]
Subject: RE: Vantage PPA: Finding 13

Meredith: I have two sets of questions which are embedded in the attached redline.

Easy question: By AB 57, do you mean PU Code 454.5(b)? I am new to the LTPP and RPS areas and not familiar with all the legislation by name.

Harder question: See the comment. In short, I don't see how your proposed exception is any different than a change in law concern, which I believe the current language addresses. There is more discussion on the attachment. I must not really be understanding PG&E's concern unless it is just a distinction between a change in law in a change in regulation. I had understood it to be more than that.

Again, to the extent this is something else, I strongly encourage you to raise this concern in the SCE Application to Modify as soon as possible, and I am also willing to continue to go back and forth with you to sort out what PG&E's real concern is.

Finally, to the extent PG&E shares SCE's purported concern that "commercially reasonable efforts" need to be expressly cross referenced in the eligibility language, (which I didn't think was PG&E's concern - but I could be mistaken) please see Civil Code Sec. 1641, which articulates the black letter rule on contract interpretation that every first year law student is taught.

Traci Bone
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From: Allen, Meredith [mailto:MEAe@pge.com]
Sent: Thursday, April 15, 2010 7:11 PM
To: Bone, Traci
Cc: Simon, Sean A.; Lee, Cheryl; [Redacted]
Subject: Fw: Vantage PPA: Finding 13

Traci,

As we discussed yesterday, attached is proposed language that addresses the delivery issue while leaving the other language on eligibility the same. The intent of the new language is to confirm recovery of the costs of the Vantage transaction in the event that the delivery rules change.

Please let me know if you would like to discuss and I will schedule a time.
Thank you for working with us on this issue.

Meredith

From: [Redacted]
To: Allen, Meredith
Sent: Thu Apr 15 15:02:10 2010
Subject: Vantage PPA: Finding 13

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Regulatory Relations
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