

From: Cherry, Brian K
Sent: 8/27/2010 1:08:41 PM
To: pac@cpuc.ca.gov (pac@cpuc.ca.gov); Frank Lindh (frl@cpuc.ca.gov)
(frl@cpuc.ca.gov)
Cc:
Bcc:
Subject: FW: GWF-Los Esteros -- Review of Tier 1 Advice Letter Disposition

FYI

From: Middlekauff, Charles (Law)
Sent: Friday, August 27, 2010 11:45 AM
To: Cherry, Brian K; Kuga, Roy M; Horner, Trina
Subject: GWF-Los Esteros -- Review of Tier 1 Advice Letter Disposition

Roy and Brian:

Following up on Bill Kissinger's comments this morning, DRA can appeal an Energy Division ruling on our Tier 1 advice letter to the Commission. Rule 7.7.1 of General Order 96-B provides:

The utility or a person filing a protest, or any third party whose name and interest in the relief sought appear on the face of the advice letter, may request Commission review of an Industry Division disposition. In exceptional circumstances, a person who has an interest in the advice letter but who did not file a protest may request Commission review. The request must explain the circumstances that entitle the person to make the request (e.g., the person was unable to file a protest or filed a response supporting the advice letter). The request for Commission review shall be filed with the reviewing Industry Division within 10 days after the issuance of the disposition, shall be served on the utility, all persons filing protests or responses, and any third party whose name and interest in the relief sought appear on the face of the advice letter, and shall set forth specifically the grounds on which the requester considers the disposition to be unlawful or erroneous. Upon filing of a timely request for Commission review, the Industry Division will prepare and place on the Commission's meeting agenda a proposed resolution, and will serve it on the requester and all others on whom the request was served. **Pending Commission action on the proposed resolution, the advice letter will take effect if it was approved under the Industry Division disposition.**

However, note that the Energy Division disposition is effective pending Commission resolution. Similar to the risks we would take for requests for rehearing, if we go ahead and waive the condition precedent after the disposition of the advice letter is issued, DRA could then protest the advice letter to the Commission. I think we could minimize this risk by talking to DRA and trying to get them not to protest. Even if DRA does protest, I think the Commission could resolve this in relatively short order.

Charles