

From: Cherry, Brian K
Sent: 11/4/2011 9:49:03 AM
To: Clanon, Paul (paul.clanon@cpuc.ca.gov) (paul.clanon@cpuc.ca.gov)
Cc:
Bcc:
Subject: Fw: Oakley

FYI. This is an early draft. I will send you the latest. It is a pretty compelling story.

Frank should have a copy.

Hi Frank:

Thanks very much for taking my call yesterday. It was very helpful to discuss this with you. The two decisions I mentioned on the phone that determined that Oakley did not fill the LTPP need determination are cited below.

In D.11-05-029, the Commission modified D.10-12-050 but otherwise rejected CARE's argument that PG&E exceeded its LTPP procurement authorization. The Commission stated: "The Commission considered approval of the Oakley Project for 2016 and beyond, and not for the purpose of the need authorized in D.07-12-052 for PG&E's procurement by 2015." (p. 12.)

In D.11-07-012, the Commission stated: "In D.10 12 050, the Commission approved the Oakley Project. Importantly, the new capacity approved by D.10-12-050 will not come online until 2016, which is after the 2015 timeframe for the new capacity authorized by D.07-12-052. Consequently, the Commission's approval of the Oakley Project, in addition to the Tracy and LECEF Projects, does not cause PG&E to exceed the new capacity authorized by D.07-12-052. [FN] [FN] D.10-07-045 reduced PG&E's authorized new capacity to 1,262 – 1,312 MW through 2015. PG&E's approved projects do not exceed this limit." (pages 5 to 6). See also Conclusion of Law: "1. Approval of the Oakley Project by D.10-12-050, in addition to the Tracy and LECEF Projects, does not result in PG&E procuring more new generation capacity than authorized by D.07-12-052 or D.10-07-045."

Unfortunately, these two decisions were after the pleadings were submitted on CARE's PFM, so it is possible that these authorities were not considered when the ACR was prepared.