

From: Cherry, Brian K  
Sent: 4/30/2012 5:00:05 PM  
To: Clanon, Paul (paul.clanon@cpuc.ca.gov) (paul.clanon@cpuc.ca.gov)  
Cc:  
Bcc:  
Subject: RE: PG&E's Revisions to the Calpine Sutter Agreements

I am not including any of the documents but thought you might want to know where we are going into tomorrow's meeting.

----- Original Message -----

From: [Redacted]  
Sent: Monday, April 30, 2012 04:48 PM  
To: 'Alex Makler' <Alex.Makler@calpine.com>; Jill Van Dalen <Jill.VanDalen@calpine.com>; Rosemary Antonopoulos <rosemary.antonopoulos@calpine.com>; Gevan Reeves <Gevan.Reeves@calpine.com>

Cc: Capelle, Anna (Law); Monardi, Marino; [Redacted]  
[Redacted] Kuga, Roy M

Subject: PG&E's Revisions to the Calpine Sutter Agreements

Calpine Team

Thank you for participating in this morning's call and correcting PG&E's misunderstanding regarding the possibility of appeals delaying the effectiveness of the agreements under PG&E's proposed language. It is clear from our discussion that either PG&E, Calpine or both must bear the appeals risk. As discussed this morning, PG&E proposes to take the appeals risk with respect to the RA Agreement, that is, the RA Agreement would be effective upon approval of the Energy Division according to Section 2.2 of the RA Agreement. PG&E proposes that Calpine take the appeals risk with respect to the Cooperation Agreement. In that case, the Cooperation Agreement would be effective upon final and non-appealable approval according to Section 4 of the Cooperation Agreement. The attached documents reflect these revisions.

In addition, as we discussed this morning, PG&E has added language to reflect Calpine's concern that the availability and testing provisions lack clarity regarding success. Also, in addressing Calpine's concern regarding limited time for the Energy Division review/approval process, PG&E has moved the latest effective date from May 21 to May 25 in both documents as Calpine requested. Delay beyond this point creates risk that PG&E will not be able to meet its RA obligation for July 2012 for its compliance filing due at the end of May. Lastly, PG&E has reflected a new letter of credit rating standard approved by PG&E management late last week that is more favorable to the Seller.

PG&E believes these documents address Calpine's concerns and we look forward to discussing these with you during tomorrow's meeting with the CPUC.

Terrance

This correspondence is for discussion purposes only. It is not an offer to buy or sell. Any agreements between the parties are subject to PG&E senior management approval and the prior execution of definitive documents.