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State Water Resources Control Board

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November 8, 2001

Parties, Hearing on Applications 30257, 30258, and 30415 of Pacific Gas and Electric Company and Application 28468 of Plumas County

RULING ON REQUEST FOR CONTINUANCE OF HEARING

This letter memorializes my oral ruling on October 23, 2001, regarding the request of Plumas County for a continuance in the above hearing. Plumas County requested a continuance of the hearing on several grounds. The California Department of Fish and Game, the California Sportfishing Alliance, and California Trout supported the request for a continuance. Pacific Gas and Electric Company (PG&E) and the Western Canal Water District, et al., opposed the request. The parties supporting the continuance argued that the competition between the applications of PG&E and Plumas County, and the protests against PG&E's applications could be resolved if the parties reach a settlement regarding the terms and conditions of a new license to be issued by the Federal Energy Regulatory Commission (FERC) for Project 2105. The supporting parties also argued that the water right hearing could interfere with the settlement discussions. The opposing parties argued that settlement discussions could continue during the water right proceeding; that the settlement process regarding Project 2105 could take a number of years; and that a ruling is desirable on the legal issues raised by the applications. I granted the request for a continuance for a limited period after considering the positions of the parties and the potential for a settlement that may obviate the need for the water right hearing on the above water right applications.

The ruling is as follows:

1. The hearing is continued until December, 2002. In December, 2002, or as soon thereafter as practicable, the State Water Resources Control Board (SWRCB) will resume the hearing unless the protests and the competition between the Plumas County and PG&E applications have been resolved or the SWRCB grants a further continuance for good cause. If the SWRCB resumes the hearing, the parties may offer in evidence any exhibits the parties have submitted for the October 24, 2001 hearing date without resubmitting them. The SWRCB also will give the parties an opportunity to submit new or revised exhibits.
2. The SWRCB will conduct a status conference early in September, 2002. The subjects of the status conference will be:
 - a. The status of negotiations between the parties that may resolve the competition between the water right applications of Plumas County and PG&E; and

California Environmental Protection Agency

- b. Whether Plumas County has made satisfactory progress toward completing the documentation, including environmental documentation, necessary for the SWRCB to consider whether or not to approve Application 28468.
3. At or after the status conference, the SWRCB will decide whether to require Plumas County to pay an annual application fee. If Plumas County has not made satisfactory progress in advancing Application 28468, the SWRCB may interpret the lack of progress, combined with any further delay in hearing the merits of Plumas County's application, as a delay in disposition of Application 28468 at Plumas County's request. (See Wat. Code § 1535.) A delay at the request of the applicant is cause for imposing an annual application fee. (Id.) The SWRCB may take into consideration any relevant information, including whether Plumas County has submitted the following documents to the SWRCB, and the contents of such documents, in deciding whether Plumas County is delaying progress on the disposition of Application 28468. By September 3, 2002, I request that Plumas County provide at least the following documentation:
 - a. A summary of the issues decided in negotiations between the parties regarding FERC Project 2105, and a summary of the issues remaining outstanding;
 - b. A summary of any studies related to PG&E's FERC application that have been completed or are in progress by the time of the status conference;
 - c. An initial study under the California Environmental Quality Act (CEQA), addressing the potential environmental effects of approving Application 28468.
4. Plumas County shall file reports with the Chief of the Division of Water Rights on the status of its progress toward resolving the competition between its application and PG&E's applications on March 1, June 3, and September 3, 2002. Other parties also may file progress reports, or the parties may file joint progress reports. The progress reports should describe the status of negotiations over relicensing Project 2105; include copies of any documents or notices prepared under CEQA either for Application 28468 or for the SWRCB's certification of Project 2105 under section 401 of the federal Clean Water Act; and report on all matters that could lead to a resolution of the key issues set forth in the SWRCB's Notice of Public Hearing dated August 30, 2001. The SWRCB will schedule the status conference to coincide as nearly as possible with the filing of the progress report due on September 3, 2002.
5. Based on the information it receives at the status conference in September, 2002, the SWRCB will decide when and whether to proceed with a hearing, and will set a hearing date if appropriate.

Parties

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If you have any questions about this ruling, you may contact Barbara J. Leidigh, Senior Staff Counsel, of the SWRCB Office of Chief Counsel, at (916) 341-5190.

Sincerely,

/s/

Peter S. Silva
Hearing Officer

Enclosures

cc: Enclosed Mailing List

Parties

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bc: Art Baggett, SWRCB Member
Richard Katz, SWRCB Member
Celeste Cantú, EXEC
Harry Schueller, EXEC
Victoria Whitney, WRC
Katherine Mrowka, WRC
Craig Wilson, OCC
Andrew Sawyer , OCC
Ed Anton, DWR
Barbara Leidigh, OCC
Debbie Matulis, OCC

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