

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - CALIFORNIA

Utility Reform Network v. Public Utilities Commission

Court of Appeal, First District, Division 5, California - February 5, 2014 - Cal.Rptr.3d - 2014 WL 526411

In 2012, Pacific Gas and Electric Company (PG&E) filed an application with the California Public Utilities Commission (the Commission) seeking approval of an agreement by which PG&E would acquire a new gas-fired power plant in Oakley California (the Oakley Project). A principal issue in the application proceedings was whether there was a need for the Oakley Project. The need was said to arise in part from California's efforts to obtain a greater percentage of its energy from renewable sources, thus requiring additional conventional electrical generating capacity to cope with fluctuations in supply due to the intermittent nature of wind and solar power.

The Court of Appeal concluded the Commission's finding of need was unsupported by substantial evidence, because it relies on uncorroborated hearsay materials the truth of which was disputed and which did not come within any exception to the hearsay rule. Under established California law, such uncorroborated hearsay evidence does not constitute substantial evidence to support an administrative agency's finding of fact. "Because the remaining evidence in the record fails to support the Commission's finding of need, the decisions must be annulled."