



# California Fair Political Practices Commission

April 7, 1988

Honorable Dudley Holman  
Mayor, City of Woodland  
11 West Casa Linda  
Woodland, California 95695

Re: Your Request for Advice  
Our File No. A-88-107

Dear Mr. Holman:

You have requested advice about application of the conflict of interest provisions of the Political Reform Act (the "Act")<sup>1/</sup> to your duties on the Woodland City Council. I am writing to confirm the advice I gave you over the telephone on March 9, 1988.

#### QUESTION

You own PG&E common stock. Soon the city council may consider an application to build a power plant whose owners will sell electrical energy to PG&E. Can you participate in a decision about the power plant if you sell the PG&E stock before the decision comes before the city council?

#### CONCLUSION

If you sell your PG&E stock before the power plant decision comes before the city council, you will be able to participate in the decision.

#### FACTS

You are the mayor of the City of Woodland. You also own 500 shares of PG&E stock worth more than \$1,000.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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On March 3, 1988, the Woodland Planning Commission approved a private company's application to build a biomass power plant. The plant would convert rice and wood mix into electrical energy. PG&E would buy the electrical energy. Opponents of the power plant application may appeal to the city council to reverse or modify planning commission approval.

To avoid a conflict of interest situation, you plan to sell your PG&E stock on the stock exchange before the city council reviews the power plant decision.

#### ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way using his official position to influence a governmental decision in which he has a financial interest. You would have a disqualifying financial interest in a decision that would foreseeably and materially affect a business entity in which you have an investment interest worth \$1,000 or more. (Section 87103(a).)

At the moment, you have an economic interest in PG&E because you own stock worth more than \$1,000. Before you can participate in a decision that would materially affect PG&E, you have to reduce your investment interest in PG&E to less than \$1,000.<sup>2/</sup> You can accomplish this by selling the shares before the power plant decision comes before the city council. After you sell the shares, you will be able to participate in the power plant decision.

If you sell the stock on the stock exchange and do not know the identity of the buyer, the buyer will not be a reportable source of income for you. Therefore, you will not have to report the sale proceeds as income on your statement of economic interests for 1988. (Section 82030(b)(12).)

However, if you sell the stock privately and you know the identity of the buyer, you will have to report the buyer as a source of income on Schedule D of your 1988 statement of economic interests. Then you also would have to consider the possible effect of the decision on the buyer.

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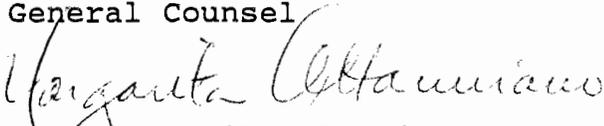
<sup>2/</sup> In this letter we make no determination that the decision in question will materially affect PG&E. We do not have sufficient information to make this determination. For your general guidance, we have enclosed Regulation 18702.2 which contains monetary guidelines concerning materiality.

Mr. Holman  
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I hope we have provided the advice you requested. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Margarita Altamirano  
Counsel, Legal Division

DMG:MA:mk

DUDLEY HOLMAN  
11 West Casa Linda  
Woodland, CA 95695

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MAR 14 1 23 PM '88

March 10, 1988

Fair Political Practices Commission  
ATTN: Diane Griffins  
428 "J" Street, Suite 800  
Sacramento, California 95814

Dear Ms. Griffins:

On March 9, 1988, Margarita Olmogarado of your office gave the oral opinion that, upon the facts set forth herein, I did not have a conflict of interest. In order to document my files, I would appreciate your written opinion as to any conflict of interest which I face and any resulting duty to disqualify myself from the decision making process of the Woodland City Council. This request is made based on the following facts:

1. A private company has submitted an application to the City of Woodland for construction of a biomass power plant which will convert a rice and wood mix into electrical energy.
2. The electrical energy so produced will be sold to Pacific, Gas & Electric Company.
3. I own approximately 500 shares of PG&E common stock.
4. The project was approved by the Woodland Planning Commission on Thursday, March 3, 1988.
5. It is expected that opponents of the biomass power plant project will appeal to the Woodland City Council to reverse or modify the Planning Commission approval.
6. I will sell all of my PG&E common stock through a licensed broker, on the open stock market prior to the date set for the public hearing on the appeal.

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The question presented is, will the sale of the common stock through the open market prior to the decision date alleviate any potential conflict of interest which I might have and therefor allow me to participate in the appeal hearing regarding the biomass power plan project?

If you need additional information or if any questions arise, please do not hesitate to contact me.

Sincerely,

  
DUDLEY HOLMAN,  
Mayor, City of Woodland

DH:jlb

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11 West Casa Linda  
Woodland, CA 95695

88-107

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1. A private company has submitted an application to the City of Woodland for construction of a biomass power plant which will convert a rice and wood mix into electrical energy.
2. The electrical energy so produced will be sold to Pacific, Gas & Electric Company.
3. I own approximately 500 shares of PG&E common stock.
4. The project was approved by the Woodland Planning Commission on Thursday, March 3, 1988.
5. It is expected that opponents of the biomass power plant project will appeal to the Woodland City Council to reverse or modify the Planning Commission approval.
6. I will sell all of my PG&E common stock through a licensed broker, on the open stock market prior to the date set for the public hearing on the appeal.

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If you need additional information or if any questions arise, please do not hesitate to contact me.

Sincerely,



DUDLEY HOLMAN,  
Mayor, City of Woodland

DH:jlb



# California Fair Political Practices Commission

March 16, 1988

Honorable Dudley Holman  
Mayor, City of Woodland  
11 West Casa Linda  
Woodland, CA 95695

Re: 88-107

Dear Mayor Holman:

Your letter requesting advice under the Political Reform Act was received on March 14, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Margarita Altamirano, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Diane M. Griffiths".

Diane M. Griffiths  
General Counsel

DMG:plh