

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine  
Procurement Policies and Consider Long-Term  
Procurement Plans.

Rulemaking 10-05-006  
(Filed May 6, 2010)

**COMMENTS OF PACIFIC ENVIRONMENT  
ON PRELIMINARY SCOPING MEMO**

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Pacific Environment respectfully submits these brief comments on the Preliminary Scoping Memo in the Order Instituting Rulemaking, filed May 6, 2010. These comments are timely and served pursuant to the Preliminary Scoping Memo and the Commission's Rules of Practice and Procedure.

Pacific Environment is a non-profit public interest environmental organization. In 2005, Pacific Environment initiated its California Program, whose mission is to "Keep California's Clean Energy Promise." Our research concludes that the only way to meet the requirements of the Renewable Portfolio Standard and AB32 is to halt any new increase in fossil fuel-generated electricity.

Pacific Environment's comments raise four issues: (1) the Commission should clarify precisely what will be evaluated in each of the three tracks; (2) the phased approach could result in procurement of unneeded energy; (3) the phased approach does not ensure adherence to the loading order; and (4) the expedited schedule does not give adequate time for these complex issues to be addressed. Finally, Pacific Environment reserves the right to raise other issues related to the Preliminary Scoping Order when it obtains more information.

**(1) Clarification of the Tracks Is Necessary.**

Pacific Environment initially requests clarification of the relationship between the tracks, including how the need forecasts will be evaluated in the three tracks and where renewable procurement and integration will be determined. The contours of the various tracks with relation to these core issues are unclear, and it is uncertain how bundled plans can be analyzed before the need issue is fully vetted and evaluated in Track 1. Pacific Environment is concerned that without clarification, the utilities may interpret the scope of bundled plans broader than the Commission anticipates.

In addition, it appears that issues related to forecasting need could be examined in both Track I and Track II. Further, it is unclear, if there is overlap, how the Commission will prevent conflicting decisions. This is especially true if decisions evaluating system needs come after utilities move ahead with their business as usual approach in Track II.

**(2) The Phased Approach Could Result in Overprocurement of Unneeded Fossil Fuel Capacity.**

Pacific Environment is concerned that the phased approach could result in overprocuring unneeded fossil fuel capacity because, while overarching system need issues are debated in Track I, utilities could push for procurement of bundled resources that would procure more fossil fuel generation than actually needed in Track II. The Preliminary Scoping Memo does not prevent the utilities from overprocuring unneeded fossil fuel generation in Track II. Likewise, it is unclear how the Commission could determine system need before evaluating the policy and planning issues related to renewable energy that are in a separate phase.

As California tentatively emerges from an economic recession, the energy landscape has changed. For example, CAISO recently forecasted that PG&E's service

territory would have a 38.5% planning reserve margin this summer.<sup>1</sup> This extraordinarily high margin is in part due to the Commission's success at increasing energy efficiency and the decrease in demand resulting from the recession. Critically, this extraordinarily high reserve margin shows that a new comprehensive evaluation of California's energy requirements is required before the utilities continue to conduct business as usual. But, under the ALJ's Preliminary Scoping Memo, utilities could do exactly that – i.e., they could procure traditional bundled energy plans, while issues related to renewables and the determination of the actual need would be decided in a different phase.

In sum, this separation could result in utilities procuring fossil fuel capacity in Track II that is not needed. Overprocuring unneeded fossil fuel energy would not be useful, just, or reasonable for the ratepayers, and should be prevented.<sup>2</sup>

Overprocurement of fossil fuel in Track II could also greatly impact California's ability to meet renewable energy requirements. According to studies that the consulting firm 3E conducted for the Commission, the only way to achieve the renewable requirement is to reduce the percentage of non-renewable generation through an ambitious program of renewable build-out and energy efficiency.<sup>3</sup>

Although the Commission has made gains in energy efficiency, the rate of new construction has undermined the improved efficiency because, while approximately 7,500 megawatts of old plant capacity retired by 2008, over 18,000 megawatts have been

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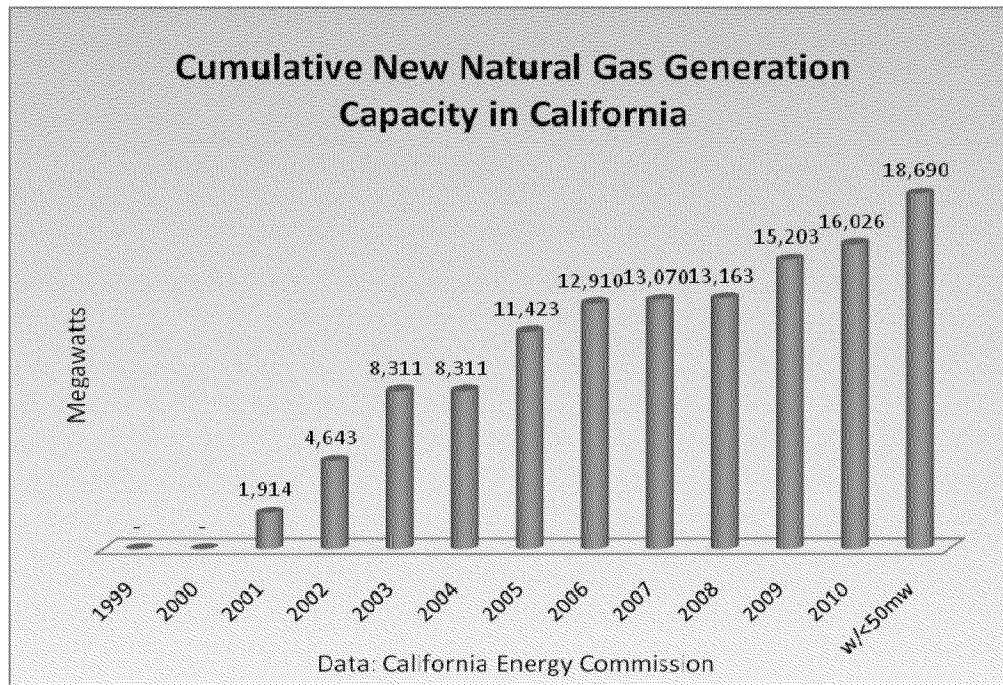
<sup>1</sup> California ISO, *2010 Summer Loads and Resources Operations Preparedness Assessment* (May 10, 2010), available at <http://www.caiso.com/2793/2793ae4d395f2.pdf>. This report provides that the summer peak for NP 26 was 19946 MW. The net supply in 2009 was 27,306 MW and the demand response value was 593 MW. This translates into over a 43% reserve margin.

<sup>2</sup> Public Utilities Code section 451 mandates that charges to ratepayers are “[j]ust and reasonable rates . . . based on the cost to serve.” See also D.04-12-048.

<sup>3</sup> CPUC, *RPS Quarterly Report* (July 2008) at p. 11, available at [http://docs.cpuc.ca.gov/word\\_pdf/REPORT/85936.pdf](http://docs.cpuc.ca.gov/word_pdf/REPORT/85936.pdf).

built, or will be built, by the end of 2010.<sup>4</sup> The cumulative new natural gas generation added in California over the last decade is shown in Figure 2. The build-up of new natural gas plants as demonstrated in Figure 2 occurred just as the state was required to implement its renewables policy.

**Figure 2.**



Contrary to this trend, the usage rate of natural gas plants will *need to decrease* if the clean energy policies are to achieve their goals. A 2003 study by Lawrence Berkeley National Laboratory (LBNL) looked at the effects of increasing renewables and reducing growth in energy demand on the future need for natural gas plants in California.<sup>5</sup> LBNL found that by 2030 the state would need to reduce natural gas plant capacity by 8,000

<sup>4</sup> Source data for the chart is in Appendix 1 of the California Energy Commission’s Energy Facility Status database. The column on the far right adds in plants that are outside the jurisdiction of the commission’s approval process. These are primarily plants under 50 megawatts built between 2000 and 2007.

<sup>5</sup> California’s Electricity Generation and Transmission Interconnection Needs Under Alternative Scenarios, CERTS, LBNL, 2003. CEC, 500-03-106, available at <http://certs.lbl.gov/pdf/ca-scenarios.pdf>. The original study, however, shows only 32,100 megawatts of existing natural gas plants due to the fact that the report dates to 2003. Since that time thousands of megawatts of new plants have been built, as the previous chart illustrates.

megawatts to meet the proposed requirement to get 33 percent of electricity from renewable energy. If aggressive energy efficiency policies slow the rate of growth in electricity demand, this could reduce the need for natural gas power plants by another 4,000 megawatts. The study did not consider the possibility of combining energy efficiency with renewables, but the state is actually in the process of adopting both of these requirements. Figure 3, below, illustrates this:

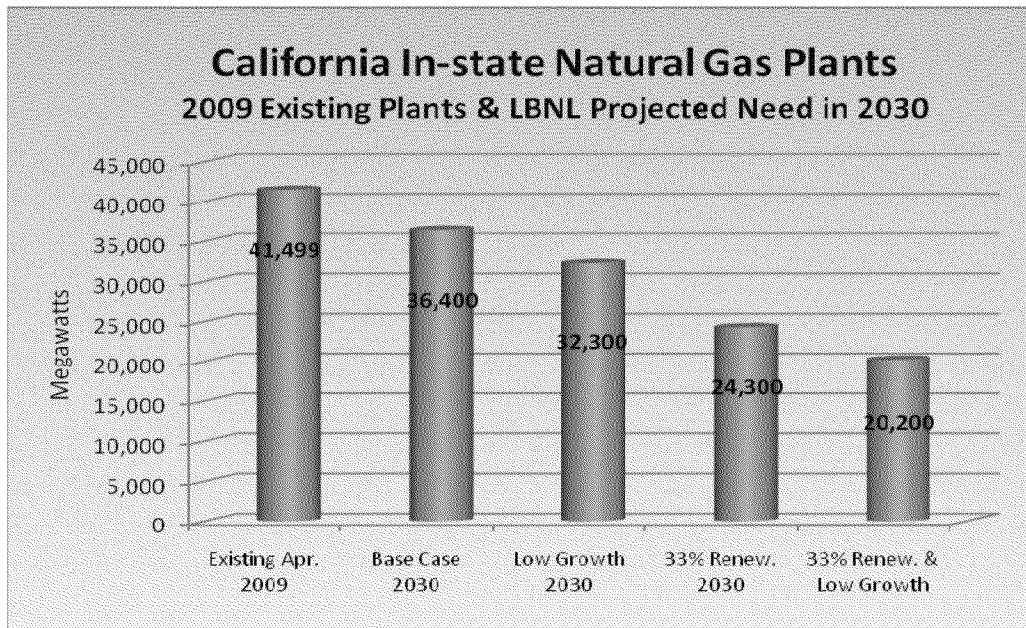


Figure 3 shows California’s existing natural gas plant capacity in April 2009 at 41,499 megawatts.<sup>6</sup> The LBNL study projected that if the state implements both the 33 percent renewables requirement and aggressive efficiency programs, then over 20,000 megawatts could be retired, more than the capacity of the approximately 15,400 megawatts of aging OTC natural gas plants.

<sup>6</sup> See California Energy Commission, California Power Plant Database (Excel File), [http://energyalmanac.ca.gov/powerplants/POWER\\_PLANTS.XLS](http://energyalmanac.ca.gov/powerplants/POWER_PLANTS.XLS).

**(3) The Phased Approach Does Not Ensure Adherence to the Loading Order.**

The Commission, working with the California Energy Commission, has adopted an Energy Action Plan that creates the following priorities or loading order:

1. Energy efficiency (EE) and demand response (DR),
2. Renewable power and distributed generation (DG),
3. Clean and efficient fossil-fired generation.

EE and DR are considered the highest priority and should be employed first by a utility in making procurement decisions since they are demand-side resources.<sup>7</sup> The Phased Approach could turn this loading order on its head by allowing utilities to fill need with fossil fuel facilities in Track II before preferred resources in Track I.

**(4) The Expedited Schedule Does Not Give Adequate Time for Complex Issues to Be Addressed.**

The proposed schedule, which requires that many important policy issues are decided after workshops and a brief comment period, does not give sufficient time to evaluate the myriad important policy issues that must be addressed in this proceeding. Further, it is extraordinarily difficult for public interest organizations, like Pacific Environment, with limited staff and resources, to effectively participate in such aggressively expedited multi-track proceedings.

The need to so aggressively expedite these important policy issues is unclear: the 2006 Long Term Procurement Plan authorized resources past 2015, and the utilities are currently operating at high reserve margins. The high reserve margin and increasing renewable requirements require a more careful and comprehensive evaluation than the phased approach and the expedited workshop schedule appear to allow.

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<sup>7</sup> D.07-12-052 at pp. 11-12.

June 4, 2010

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Fe Gonzalez, am over the age of 18 years and employed in the City and County of San Francisco. My business address is 536 Mission Street, San Francisco, California 94105.

On June 4, 2010, I served the within document **COMMENTS OF PACIFIC ENVIRONMENT ON PRELIMINARY SCOPING MEMO**, in R.10-05-006, pursuant to the Commission's Rules of Practice and Procedure, with separate and additional delivery of hard-copies by U.S. Mail to Assigned Commissioner Peevey and Assigned ALJ Kolakowski, at San Francisco, California.

Executed on June 4, 2010, at San Francisco, California.

/s/ Fe Gonzalex  
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Fe Gonzalez

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