

**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

R.10-05-006

**OPENING BRIEF OF THE
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION
ON TRACK THREE ISSUES**

William H. Booth, Of Counsel
Alcantar & Kahl
33 New Montgomery Street, Suite 1850
San Francisco, CA 94105
(415) 421-4143
whb@a-klaw.com

Counsel for CLECA

September 15, 2011

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The California Large Energy Consumers Association (CLECA) hereby submits its opening brief on issues in Phase 3 of the Long Term Procurement Planning proceeding. CLECA is an organization of large, high load factor industrial customers of Southern California Edison Company (SCE) and Pacific Gas & Electric Company (PG&E), for whom electric costs comprise a very significant portion of their overall costs of production. CLECA participates in this proceeding as a result of its concern for the long-term health of the utilities' procurement planning and the cost impacts of such activity on their rates.

I. INTRODUCTION

In Track 3, the Administrative Law Judge (ALJ) directed the utilities to address the following:

“(1) procurement rules relating to once-through cooling issues; (2) refinements to the bid evaluation process, particular [sic] weighing competing bids between utility-owned generation and power purchase agreements; (3) refinements to the existing timeliness associated with the utilities’ RFOs for resource adequacy products; (4) utility procurement of greenhouse gas related products;” and (5) “procurement oversight rules, including the oversight responsibilities and

authority of various entities (including Independent Evaluators and the Procurement Review Group) and standards of conduct applicable to the utilities and their employees.” (ALJ Ruling addressing Track 3 Issues, June 13, 2011.)

CLECA served testimony on two of these issues. (Dr. Barkovich, Ex. 1900.) The first was the SCE proposal for new generation procurement by the California Independent System Operator (CAISO). The testimony of CLECA’s witness, Dr. Barkovich, strongly recommended that the Commission reject this SCE proposal for reasons presented below. The second issue is the proposal of the Commission staff that the utilities only be allowed to sign one-year contracts with fossil generation using once-through cooling (OTC), once current contracts expire. CLECA’s testimony, and that of many other parties, recommended the rejection of this proposal on the grounds that it could result in unnecessary cost increases that would not have commensurate benefits for customers.

II. THE SCE CAISO PROCUREMENT AUCTION PROPOSAL

In its Track 3 testimony, SCE proposed that new generation capacity intended for purposes other than meeting the planning reserve margin (PRM) should not be procured by individual utilities. SCE argued that this "other" procurement, for local capacity requirements and integration of renewable generation, should be undertaken by the CAISO, which could identify the need and “appropriately” spread the cost responsibility for the development of such generation. (Ex. 211, pp. 6-7.) Under SCE’s proposal, this procurement would be for new generation only, through a centralized auction run by the CAISO, and the costs would be billed to all load-serving entities (LSEs) based on their peak load. The CAISO, rather than a utility, would make long-term commitments for the winning new generation. SCE posits that the contracts would

be financeable through the authority of the CAISO tariff, which is approved by the Federal Energy Regulatory Commission (FERC). (Ibid.)

While in its reply testimony SCE did not ask the Commission to reach a decision on this proposal in this proceeding, it did propose that the Commission open a new proceeding to address these matters prior to the next LTPP case. (Ex. 215, p. 1.)

SCE's ostensible reason is that "the first CAISO new generation auction should select bids by the end of 2012 in order to ensure that this new generation would have sufficient time to come online." (Ex. 211, p. 8.) CLECA's witness noted that such a timeline is not feasible, given the time it would take for the CAISO to develop an auction plan and gain FERC approval. (Ex. 1900, at p. 4.) SCE's reply testimony responded that more time could be needed, but that the Commission should nonetheless open a new proceeding as soon as possible. (Ex. 215, p. 5.)

CLECA's Dr. Barkovich provided numerous reasons why the Commission should reject this SCE proposal. (Ex. 1900, at pp. 4-5.) She pointed out that the CAISO has no expertise or experience in the procurement of resources under long-term contracts. Contrary to SCE's assertion, the CAISO's experience with Reliability Must Run contracts and Congestion Revenue Rights is not analogous to conducting a procurement process for long-term resource contracts. The utilities possess this type of expertise and there is no reason to ask the CAISO to attempt to duplicate it. Additionally, while SCE argued that such tariff authority exists in eastern regional transmission organizations (RTOs), it admits such authority would have to be added to the CAISO Tariff. (Ex. 215, p. 5.) Furthermore, Dr. Barkovich pointed out that the CAISO has numerous important undertakings underway associated with such matters

as renewable integration and transmission planning where its expertise and resources are fully engaged. (Ex. 1900, at pp. 4-5.)

SCE's reply testimony makes it clear that the utility's proposal is driven by cost allocation concerns, not procurement concerns.

“Further, SCE made this recommendation because only CAISO, and not the CPUC, can provide the most appropriate, efficient and fair cost allocation mechanism for the entire California energy market. CAISO can allocate some new generation costs to the intermittent generation that causes the costs to be incurred. The CPUC does not have the jurisdictional authority to allocate costs to these entities. “ (Ex. 215, p. 3.)

In order to achieve its cost allocation preference, SCE would have a significant part of utility procurement shift to a FERC-jurisdictional process that would reduce the role of this Commission and create additional burdens on ratepayer representatives. SCE's assertion that the Commission would continue to have a significant role in procurement fails to convince CLECA, and should fail to convince the Commission as well.

In fact, SCE's proposal shares many attributes with a previous proposal it put forth for a centralized capacity market in R.05-12-013. That proposal resulted in a process that took five years and was finally rejected by this Commission in D.10-06-018, a little more than a year ago. In that decision, the Commission noted that it wished to observe the progress of other such markets before making what would be an irreversible decision to support such a market in California. (D.11-06-018, at pp. 63-64) Nothing has happened in the last year to suggest that the Commission should reopen such a contentious matter. Indeed, the reasoning in that decision still holds, despite the fact that SCE's latest proposal would narrow the focus to new generation and less generic capacity.

While SCE claims that it is not asking for a decision on this matter in this proceeding, the Commission should reject SCE's proposal for the initiation of another proceeding on matters that the Commission has so recently addressed. It would represent a waste of scarce Commission and ratepayer representative resources. SCE has provided no sound reason why such an undertaking would be of value.

III. COMMISSION STAFF'S PROPOSED LIMITS ON PROCUREMENT FROM ONCE THROUGH COOLING UNITS

In an attachment to a ruling from the ALJ dated June 10, 2011, the Commission staff proposed that utilities not be permitted to enter into a new contract for a duration of longer than one year for power from fossil generating plants using once-through cooling (OTC). Staff also proposed that utilities not be permitted to contract for operation of such units beyond the State Water Resources Control Board (SWRCB) OTC compliance date unless the facility were found compliant or the Commission authorized the procurement in an LTPP proceeding.

In its testimony, CLECA noted that the utilities all opposed this proposal, arguing that it may result in higher costs to ratepayers and is unnecessary given deadlines for retirement or repowering of the fossil OTC plants. (Ex. 1900, p. 8.) CLECA supported the utility position. Since fossil OTC plants represent a significant fraction of installed generation, much of which is required for local reliability, requiring the utilities to re-contract with such facilities every year until they are shut down or repowered would create risks for both generators and consumers, and such risks could well increase costs.

CLECA pointed out that the problem is not the length of the contracts. (Ibid.) It is how to prepare for the retirement or repowering of these units in the context of

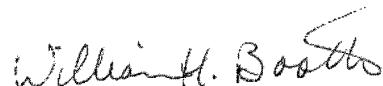
making cost-effective decisions to address local reliability needs given the SWRCB regulations. CLECA notes that the Settlement in Track 1 of this proceeding provides a plan to assess these local reliability needs over the next year. The Commission should consider the results of that assessment before reaching any decision on contracting for the output of fossil OTC units.

IV. CONCLUSION

CLECA urges the Commission to reject SCE's proposal to commence a new proceeding next year to consider procurement of new generation by the CAISO as opposed to the utilities for the reasons stated above. CLECA also requests that the Commission not adopt the Energy Division proposal to restrict the time frame for contracts with fossil OTC units.

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Respectfully submitted,



William H. Booth, Of Counsel
Alcantar & Kahl
33 New Montgomery Street, Suite 1850
San Francisco, CA 94105
(415) 421-4143
whb@a-klaw.com

Counsel for CLECA