

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)

**REPLY BRIEF OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
ON TRACK I (SYSTEM PLANNING) AND TRACK III (PROCUREMENT RULES)**

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The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits this Reply Brief on Track I System Planning and Track III Procurement Rules issues in this Long Term Procurement Plan (LTPP) rulemaking (R.10-05-006). This Reply Brief is filed and served pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure; the Administrative Law Judge's (ALJ's) Rulings issued on May 31, June 10, and June 13, 2011; and the ALJ's Ruling made during the evidentiary hearing held on August 15, 2011, establishing October 3 as the due date for Reply Briefs on Track I and Track III issues.

**I.
INTRODUCTION**

In its Opening Brief, filed on September 16, 2011, CEERT recommended that the Commission take the following actions in its final decision on Track I (System Planning) and Track 3 (Procurement Rules) in this LTPP cycle:

- Track I:** The Commission should adopt the System Track I Settlement Agreement filed on August 3, 2011, without modification.
- Track I:** The Commission should direct that the California Independent System Operator's (CAISO's) Phase 2 analysis should be part of a new LTPP cycle, instituted with a Commission rulemaking issued in the first quarter of 2012, and should incorporate the demand forecast and other relevant results from the California Energy Commission's (CEC's) 2011 Integrated Energy Policy Report (IEPR).

Track III: The Commission should reject Energy Division’s proposal that the Procurement Oversight Rules (Rulebook) should be adopted as a “fully enforceable document.”

Track III: Any Procurement Oversight Rules (Rulebook) should only be adopted as a non-enforceable compendium of current Commission procurement requirements and should extend to *all* procurement, including Renewable Portfolio Standard (RPS) resources, demand response, and energy efficiency.

These recommendations are not changed by any of the Opening Briefs of other parties, have merit, and should be adopted by the Commission. In addition, CEERT believes that certain recommendations made by the Large-Scale Solar Association (LSA), Sierra Club California (Sierra Club), and Pacific Environment in their Opening Briefs and discussed below warrant consideration and adoption by the Commission.

II.
IN ADDITION TO CEERT’S RECOMMENDATIONS FOR TRACKS I AND III, CERTAIN RECOMMENDATIONS MADE BY LSA, SIERRA CLUB, AND PACIFIC ENVIRONMENT SHOULD ALSO BE ADOPTED.

In their Opening Briefs, certain recommendations made by LSA, Sierra Club, and Pacific Environment are significant and deserve consideration and adoption by the Commission. In this regard, LSA has demonstrated in both its testimony in Track I and its Opening Brief, that the “environmental scoring criteria,” which are used in the “CPUC-Required Scenarios,” “are ‘deeply flawed’ and need to be revised before they are used again for any proceeding.”¹ Recognizing the negative impact of such flawed criteria on resulting scenarios and the long lead time necessary to correct these criteria, LSA asks that the Commission “promptly ... initiate a stakeholder process to develop a replacement environmental scoring methodology.”² LSA suggests that this stakeholder process be modeled after the approach recommended in the

¹ LSA Opening Brief, at p. 6, citing Exhibit (Ex.) 1800, at p. 3 (LSA (Mason)); see also, LSA Opening Brief, at pp. 6-12.

² *Id.*, at pp. 6, 12.

Settlement Agreement for completing the renewables integration analyses, except that this process would be led by the Commission and not the California Independent System Operator (CAISO).³

CEERT strongly supports both LSA's analysis of the flaws of the current environmental scoring criteria and its call for a stakeholder process to develop a revised methodology to be used or relied upon in any further long term procurement planning. CEERT also agrees with LSA that the "timeline for developing a replacement scoring method should ensure that the replacement method is read in time to be used for developing new scenarios in the next LTPP cycle and other planning efforts."⁴

With respect to the Sierra Club and Pacific Environment, both parties in their Opening Briefs have sought changes to the IOUs' procurement processes aimed at increasing their transparency. In this regard, both as a matter of law and fact, the Sierra Club has demonstrated that the current Procurement Review Group (PRG) meetings should be open to the public. Sierra Club concludes that each "PRG is an exclusive group of non-market participants and is in effect a substitute for an open and transparent procurement review process as required by law."⁵

Similarly, Pacific Environment emphasizes the need for increased "transparency of the utilities' bid evaluation processes," especially to ensure that the IOUs' request for offers (RFOs) appropriately and adequately consider "environmental requirements, including the loading order."⁶ To that end, like the Sierra Club, Pacific Environment asks that the Commission "increase transparency" and "allow public access to non-confidential PRG information."⁷

³ Id., at p. 12.

⁴ Id., at p. 12.

⁵ Sierra Club Opening Brief, at pp. 19-22.

⁶ Pacific Environment Opening Brief, at pp. 35, 45.

⁷ Id., at p. 50.

CEERT has long supported greater transparency in the utility procurement processes and supports these recommendations. CEERT also agrees with the Sierra Club that any need to treat information produced by or provided to the PRG as confidential should be determined according to the rules that define and govern access to “market sensitive” information adopted by the Commission in D.06-06-066, as recently modified in D.11-07-028.

Respectfully submitted,

October 3, 2011

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