

To: All Parties in R.10-05-006, Long Term Procurement Planning

From: Commissioner Florio

Re: My future participation as a decisionmaker in this proceeding

Date: November 14, 2011

Since my appointment to the Commission in January of this year, I have recused myself from participation in the Commission's decisionmaking processes in Rulemaking 10-05-006, the Long Term Procurement Planning (LTPP) proceeding. Those recusals were due to my previous participation in this rulemaking on behalf of The Utility Reform Network (TURN) during 2010. In particular, I did not participate in D.11-06-004 addressing convergence bidding, or in D.11-05-005 regarding implementation of Senate Bill 695, because I authored TURN's pleadings on those topics.

In the interest of full disclosure, my prior work on behalf of TURN in this proceeding also involved the submission of several rounds of comments during the early stages of the case on a variety of issues raised in the various initial rulings, including the proposed scope of the proceeding and renewable integration modeling issues. Those documents can all be viewed on the Commission's website under the Docket Card for R.10-05-006.

Now that the issues on which I participated on behalf of TURN have been resolved by interim Commission decisions, the focus of the proceeding has shifted to the utility's bundled procurement and system resource plans. Those plans had not even been filed yet at the time I became a commissioner, and thus I had no involvement in the development of TURN's positions on the plans.

I am therefore considering whether it would be appropriate for me to participate as a decisionmaker in the remainder of this docket going forward, and am soliciting the views of the parties in that regard. As I understand the applicable ethical standard, the question is whether, because of my past involvement on behalf of TURN, I have already formed a fixed opinion on the issues at stake, such that my participation would deny parties' their due process right to a fair and unbiased decisionmaker. I do not believe that

I have formulated such fixed opinions, but the appearance of fairness is as important as the reality in circumstances such as these.

For these reasons, I am providing parties the opportunity to register any objections that they may have to my future participation as a decisionmaker in this docket. It is my hope that, in the interest of fairness, a process can be established such that any objections can be provided confidentially to the assigned Administrative Law Judge, without my knowing which party or parties may have raised the concern. Absent such objection, it would be my intention to participate in future commission deliberations in this proceeding. Thank you.