

**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  
(May 6, 2010)

**COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION ON THE PROPOSED DECISION ON BUNDLED  
PROCUREMENT PLANS**

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The Independent Energy Producers Association (IEP) offers these brief comments on two aspects of the *Proposed Decision Approving Modified Bundled Procurement Plans* (PD) prepared by Administrative Law Judge Peter Allen and issued on November 10, 2011.

**I. IMPLEMENTATION OF THE LOADING ORDER**

The PD adopts a formulation proposed by Pacific Environment for how the utilities should comply with the loading order adopted as part of the Energy Action Plan. The PD determines that “the utility obligation to follow the loading order is ongoing. The loading order applies to all utility procurement, even if pre-set targets for certain preferred resources have been achieved.”<sup>1</sup>

IEP is concerned that the PD does not adequately explain how this determination would be carried out in the context of a long-term procurement plan (LTPP). The PD’s statement raises the key issue of how the LTPPs will be coordinated with the results of separate

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<sup>1</sup> PD, p. 20.

proceedings that set the level and budget for cost-effective energy efficiency (EE) and demand response (DR) programs, the highest-ranking resources in the loading order.

As described by San Diego Gas & Electric Company and quoted in the PD, “the Commission determines the amounts of cost-effective EE and DR in separate proceedings that look at the full range of options and then approves specific programs and funding for the next program period, usually a two- or three-year period.”<sup>2</sup> The results from the most recent EE and DR proceedings are incorporated in the demand forecasts used to develop each utility’s LTPP. Committed and reasonably likely supply resources are compared with the forecasted loads to determine whether the utility needs to acquire additional resources over the planning horizon—the calculation referred to as the “net short.” Under the policies adopted in Decision (D.) 07-12-052, any needed additional resources should be procured primarily through a competitive solicitation (which could include proposals for EE and DR) or through negotiations informed by the results of the competitive solicitations.

Thus, the separate EE and DR proceedings identify the cost-effective EE and DR resources that are incorporated in the demand forecasts, and the competitive solicitations identify any other EE and DR resources that are the best options available in the market. By definition, any *additional* procurement of EE and DR resources would not be cost-effective or would be priced above market. Incorporating the results of the EE and DR proceedings into the load forecast for the LTPP proceeding reflects the preferred loading order and provides a critical measure of regulatory certainty associated with the utilities’ procurement plans.

In contrast to the way the loading order is currently reflected in the LTPP proceeding, the PD’s statement could be read to mean that utilities are required to investigate the availability of additional EE and DR resources and potentially to invest in additional uneconomic

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<sup>2</sup> PD, p. 18.

EE programs or purchase uneconomic preferred DR resources as part of their effort to obtain the resources needed to meet the demand identified as the LTPP net short. Although the PD also clarifies that utilities are required to procure additional EE and DR resources only “to the extent they are feasibly available and cost effective,”<sup>3</sup> the clash between the implications of the PD’s statements on the loading order leave IEP and presumably other readers unclear about exactly what the PD intends to require in this passage.

IEP is particularly unclear about how the different proceedings (LTPP, EE, DR, Renewables Portfolio Standard (RPS)) are supposed to be coordinated. If an LTPP proceeding finds that a utility has a need to procure additional resources, how much authority does the utility have to secure these additional resources in light of the assumptions established in the EE and DR proceedings and integrated into the demand and supply forecasts used to determine the net short in the LTPP? Is the utility permitted to conduct a competitive solicitation immediately or must it first seek the Commission’s approval to attempt procure additional EE or DR resources before turning to a competitive all-source solicitation? Is the utility expected to procure additional EE and DR resources outside of a competitive solicitation and beyond the authority granted in the most recent EE and DR proceeding?

The PD should be modified to provide clear answers to these questions and to remove any lingering uncertainty about the extent of the utilities’ procurement authority. Preparing and submitting bids and negotiating power purchase agreements require a significant commitment of time and resources by developers. IEP is concerned that a lack of clarity about what the utilities are authorized to procure to fill the net short may have the unnecessary and unintended consequence of undermining developers’ confidence in the utilities’ procurement practices.

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<sup>3</sup> PD, p. 21.

For these reasons, the PD should be modified to clarify how the results of the EE and DR proceedings are to be coordinated with the LTPP proceeding and whether the loading order should be implemented to require utilities to procure additional EE and DR resources, beyond those authorized in the EE and DR proceedings or procured through an all-source competitive solicitation.

## **II. USE OF BIOMETHANE IN CONVENTIONAL PLANTS**

The PD correctly rejects the request of Pacific Gas and Electric Company (PG&E) to procure biomethane for use in its own gas-fired generating plants at prices that are higher than the market price of natural gas. PG&E requests this authority on the assumption that burning biomethane in conventional plants will help meet PG&E's RPS obligations. IEP agrees with the PD that PG&E's assumption raises the basic issue of eligibility under the RPS, an issue that the California Energy Commission has authority to decide.

The PD's treatment of PG&E's request highlights one other issue. The use of biomethane in conventional resources to claim credit toward the RPS goals is a controversial topic that is being debated at many levels of state government. Despite widespread interest in this topic, the bulk of PG&E's testimony on its proposal and the entirety of its Electric Portfolio Supply Plan is blacked out in the public version of these documents—the only versions that the vast majority of Californians have access to. Shielding the details of PG&E's proposed use of biomethane from public scrutiny leaves most Californians, including key members of the Legislature, guessing about exactly what PG&E is proposing.

IEP recognizes that there may be some commercially sensitive information in the Electric Portfolio Supply Plan, but it is hard to imagine that almost all information about PG&E's proposed use of biomethane needs to be shielded from the public view because of claimed commercial sensitivity. To facilitate an informed discussion of this issue, the

Commission should exercise its authority to make public the materials on biomethane that were submitted as confidential. The Commission should disclose enough of the allegedly confidential materials to allow for a full and informed public discussion of the pros and cons of qualifying combustion of biomethane for RPS eligibility. The public benefit of an informed debate on the benefits and credits of biomethane outweighs any narrow commercial value cited to justify extensive confidential treatment of the documents.

Respectfully submitted this 30th day of November, 2011 at San Francisco, California.

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