

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)

**OPENING COMMENTS OF COMMUNITIES FOR A BETTER ENVIRONMENT
REGARDING
TRACK II BUNDLED PLAN PROPOSED DECISION**

SHANA LAZEROW (Bar No. 195491)
Communities for a Better Environment
1904 Franklin Street, Suite 600
Oakland, CA 94612
(510) 302-0430 x 18 (telephone)
(510) 302-0437 (facsimile)
slazerow@cbeocal.org (e-mail)

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Attorney for
COMMUNITIES FOR A BETTER ENVIRONMENT

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Communities for a Better Environment (“CBE”) submits these Opening Comments regarding November 10, 2011 Proposed Decision on Track II Bundled Procurement Plans (“PD”). CBE timely submits these comments within 20 days of issuance of the PD.

I. PD Correctly Requires Application of the Loading Order to Procurement Decisions

The PD reviews the positions taken by various parties with respect to the loading order. It begins with the example of Southern California Edison (“SCE”), which essentially argues that the bundled plans are intended to procure power to meet the need that remains after it deploys all preferred resources.¹ In this framework, all resources are allowed to bid to meet the remaining need, but the loading order is satisfied prior to calculating the residual need to be filled by the bundled plan. The PD correctly rejects this position as being contrary to established law and Commission precedent.²

San Diego Gas and Electric (“SDG&E”) espouses the view that the proceedings that calculate Energy Efficiency and Demand Reduction targets have already incorporated all cost-

¹ PD, p. 17 (citing (SCE Opening Brief at 6).

² PD, p. 20.

effective preferred resources, so it is unlikely that cost-effective preferred resources will remain to meet bundled-plan needs.³

Finally, Pacific Environment (“PE”) advocates the straightforward approach that the loading order would apply to all procurement decisions.⁴ This would ensure that regardless of when a utility embarks on a procurement decision, the loading order would apply.

The PD concludes that “[t]he loading order applies to all utility procurement, even if pre-set targets for certain preferred resources have been achieved.”⁵ This well-reasoned conclusion is the only way to make the loading order effective. Allowing utilities to comply with the loading order only at the moment calculated targets are achieved would ensure it remains an exhortation rather than giving it the force of a mandate.

II. PD Correctly Rejects SCE’s Proposal to Procure Undefined “Renewables Integration Products”, and Should Reject its Request for Procurement Authority for “Non-CAISO Transmission Products”

SCE proposes to procure “Renewables Integration Products”, of which it gives several examples. CBE and other parties provided testimony and argument explaining that approving procurement of such undefined products would exposed the ratepayers to unacceptable risks. The PD concluded that the renewables integration products are not adequately defined, too vague and broad to add to the list of approved procurement products.⁶

In its brief and expert testimony, CBE raised the same concern about “Electricity Transmission Products for non-CAISO Transmission.” SCE mentions this product in its testimony, but does not provide a definition.⁷ The PD does not explicitly reject SCE authority to

³ Id. at 18, citing SDG&E Opening Brief at 9-10.

⁴ Id. at 17.

⁵ Id. at 20.

⁶ Id. at 28.

⁷ Prepared Opening Testimony of Julia May Concerning Track II Bundled Procurement Plan on Behalf of Communities for a Better Environment (“May Testimony”), p. 20.; CBE Track II Bundled Plan Reply Brief, p. 5.

procure such undefined products. Because the PD approves the utilities' plans except as modified by the PD, it is vital that the PD clarify that SCE is not being given carte blanche to procure undefined "Electricity Transmission Products for non-CAISO Transmission"

III. Rejection of SCE's Proposal to Procure Short Term Renewable Contracts Should Explicitly Reject SCE's Plan to Meet the RPS through "Flexible Compliance", or Banking RECs

In its plan, SCE seeks approval to enter into contracts for stand-alone renewable energy credits "RECs" and bundled renewable generation. CBE submitted expert testimony and briefing explaining that the new renewables law, SBx1 2 is sufficiently clear on its face to prohibit SCE's plan to rely on banked RECs and other forms of flexible compliance.⁸ Specifically, SBx 1 2 deleted the provision that allowed "flexible compliance" and significantly clarified the extent to which a utility may rely on banked RECs.⁹

The PD fails to address SBx 1-2, mentioning only that the RPS proceeding is currently adjudicating implementation of the new law.¹⁰ The PD correctly rejects SCE's request for pre-approval for short term contracts for these products, concluding that the existing RPS proceeding is the venue for such determinations. In light of the law's clarity on the specific issues of flexible compliance and banking, the PD should be more explicit, and reject the proposal on its merits. Simply suggesting that SCE offer the same proposal in the RPS proceeding implies that it could be approved as written, which is simply not the case.

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⁸ See May Testimony, pp. 11-14; CBE Track II Bundled Plan Reply Brief, pp. 2-5.

⁹ Id.

¹⁰ PD, pp. 38-39.

IV. Failure to Assure that No New Fossil Fuel Power is Procured to Meet Bundled Needs

In its Opening Brief, the Sierra Club correctly noted that none of the proposed Bundled Plans states that the utilities will not procure new fossil fuel generation as a result of the plan.

Sierra Club recommends that the Commission require each bundled plan to contain a binding, explicit statement that the Plan does not authorize long-term procurement of fossil fuel generation. It should state that any request for construction of new fossil fuel generation capacity cannot be based on this plan, and the assumptions required by the Commission and the assumptions in the bundled plan support this requirement.¹¹

CBE reiterated this concern in its reply brief: although the Scoping Memo and other orders in this proceeding state that the bundled plans should not result in procurement of new fossil fuel generation, none of the plans makes any such commitment. The PD should follow Sierra Club's recommendation, and require each utility to commit that it will not contract for new fossil fuel generation to satisfy bundled plan needs.

V. The PD Correctly Rejects Procurement of Biomethane

PG&E seeks to authority to procure biomethane at a premium, on the basis that biomethane may satisfy its RPS requirements, or have fewer environmental impacts than natural gas. CBE strongly supports the PD's conclusion that this is not the forum to whether biomethane would satisfy the utilities' RPS mandates. Generating, synthesizing, transporting and combusting biomethane can have severe environmental and public health impacts in low-income communities. PG&E's effort to secure a ratepayer-funded premium to pay for a fuel source that may have dire consequences for the most vulnerable ratepayers is rightfully rejected.

¹¹ Track II Opening Brief of Sierra Club California, p. 14.

CONCLUSION

CBE respectfully requests that the PD be revised to reflect the concerns articulated above.

Respectfully submitted,

November 30, 2011

/s/ SHANA LAZEROW
Shana Lazerow

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1904 Franklin Street, Suite 600
Oakland, CA 94612
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