

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 COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION APPROVING MODIFIED
BUNDLED PROCUREMENT PLANS**

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I. INTRODUCTION

Pursuant to the Commission's Rules of Practice and Procedure, Article 14, the Division of Ratepayer Advocates (DRA) submits these reply comments on the Proposed Decision (PD). DRA's comments focus on the procurement authority authorized by the PD, and implementation of the Loading Order. DRA also responds to concerns raised by one party regarding hedging.

II. DISCUSSION

**A. Up Front Standards and Procurement Authorized in
Bundled Plans**

In approving the Bundled Procurement Plans (BPPs) for Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E), the PD imposes a cost cap of 10% of the system average rate over a rolling 18-month period. Any procurement activity that exceeds this limitation is not pre-approved and therefore is subject to reasonableness review.¹ PG&E opposes this cost cap, arguing that it is unsupported in the record, unnecessary, vague, and unworkable.² SDG&E also opposes the 10% cost cap for very similar reasons. Southern California Edison Company (SCE)

¹ PD at pp. 13-14, Ordering Paragraphs 2 and 3.

² PG&E Opening Comments, p. 1-2.

also opposes the cost cap even though it is not clear that it directly applies to SCE's BPP.³ PG&E argues that there is no need for the cost cap as no party has asserted that the IOUs have procured too much short and medium-term energy or capacity for bundled customers since the utilities resumed procurement in 2003.⁴ Finally, both PG&E and SDG&E state that if any procurement cap is imposed, it should be a quantity cap, not a cost cap.⁵ This, they argue, would be more consistent with the approach approved in SCE's BPP, which imposes limits on the quantity of SCE's procurement based on SCE's own forecasted future needs.⁶

DRA supports the PD's approach. The PD's imposition of a 10% of system average rate limitation would impose some cost discipline, an important objective of Public Utilities Code section 454.5. While there may be some questions regarding implementation details, the PD provides important direction on what constitutes "up front" standards required by 454.5. The PD is correct in clarifying that the BPPs cannot be merely illustrative and at the same time, provide the necessary procurement guidance to establish rates that are presumptively "just and reasonable" and therefore not subject to further after-the-fact reasonableness review.⁷ The 10% of system average rate cost containment measure imposed by the PD provides important guidance for IOU procurement practices.

Finally, as the PD recognizes, this 10% upper boundary on utility procurement should not be a problem in actual practice, as it is well above the level of price increases the utilities request authority to hedge against in their procurement plans.⁸ And, as

³ Only PG&E and SDG&E's BPP's were approved subject to the modification of the 10% cap; however, Ordering Paragraph 3 provides that "Utility rate recovery of costs above the 10% cap is not consistent with a pre-approved procurement plan and is subject to reasonableness review." (PD at p. 14, p. 49, Ordering Paragraph 3.)

⁴ PG&E Opening Comments, pp. 3-4.

⁵ PG&E Opening Comments, p. 6; SDG&E Opening Comments pp. 10-11.

⁶ The PD allows SCE to use its preferred analysis methodology for the first five years of its BPP, and then it must follow the standardized planning assumptions approved by the PD. (PD at p. 16; Ordering Paragraph 4.)

⁷ PD at pp. 10-11.

⁸ PD at p. 14.

PG&E argues, there has not been a problem with utility over-procurement for bundled load. Thus, the opposition to the 10% cost cap appears unwarranted.

B. Compliance with the Loading Order

DRA supports the PD's conclusion that compliance with the Loading Order is an ongoing utility obligation throughout the procurement process.⁹ SDG&E says that it does not disagree with the general policy regarding adherence to the Loading Order set forth in the PD, but argues that further details need to be clarified to address the ongoing procurement of Energy Efficiency (EE) and Demand Response (DR) resources.¹⁰ Specifically, SDG&E states that the Commission will need to develop new procedures to implement this requirement, including establish "feasibility" criteria and ensuring consistency with existing EE/DR core portfolio policies.¹¹

PG&E would have the Commission modify the requirement so that procurement of preferred resources is only addressed in the respective proceedings for those resources.¹² PG&E also discusses its concerns regarding how preferred resources can or should be incorporated into procurement for open net short positions. These concerns are related to the cost effectiveness of preferred resources as defined in other proceedings, the need for resources that provide the necessary operational characteristics reflected in a utility's open position, the amount of time and money it takes to develop and implement preferred resource programs, and the vague terminology in the PD that provides little guidance for the utilities.¹³

SCE argues that it already does consider the Loading Order and all available resources that are cost effective when making procurement decisions or holding RFOs.¹⁴ However, in actual practice, DRA observes that all-source RFOs do not result in the procurement of preferred resources.

⁹ PD at p. 20.

¹⁰ SDG&E Opening Comments on PD, p. 13.

¹¹ SDG&E Opening Comments on PD, pp. 14-15.

¹² PG&E Opening Comments on PD, p. 9.

¹³ PG&E Opening Comments on PD, p. 9-10.

¹⁴ SCE Opening Comments on PD, p. 3.

DRA's Opening Comments acknowledged a need to clarify how the utilities' day-to-day procurement practices should be changed, and how the IOUs should determine what preferred resource alternatives are "feasible" and "cost effective."¹⁵ DRA recommended that ED staff work with the IOUs and other interested parties to develop a process (e.g. workshops) to develop recommendations on how, specifically, the IOUs should implement the requirement that utility procurement must comply with the Loading Order on an ongoing basis while maximizing cost-effectiveness.¹⁶ The concerns raised by the IOUs also support the need for further clarification and guidance to implement this important requirement.

C. Hedging

Only one party, L. Jan Reid, submitted comments opposing the PD's changes to the Consumer Risk Tolerance used in financial hedging. DRA believes the PD correctly addresses this issue with reasonable improvements to the current CRT methodology. Reid argues that the Commission has no basis to conclude that ratepayers have spent too much on hedging, and asserts that the PD's hedging restrictions may result in rates that are not "just and reasonable."¹⁷ Reid proposes that the current CRT methodology remain unchanged.¹⁸ However, Reid does not support his contention that the current CRT approach is superior. Reid questions the Commission's authority over financial hedging, yet also offers his own recommendations that would more restrictively control financial hedging. Reid mentions, almost in passing, a few alternatives that the Commission could consider if it really believes that hedging costs are too high.¹⁹ However, these were never addressed or explored in this proceeding. Since the record in this proceeding does not support these alternative hedging proposals, they should be disregarded.

¹⁵ DRA Opening Comments on PD, p. 2.

¹⁶ DRA Opening Comments on PD, p. 3.

¹⁷ Opening Comments of Jan L. Reid at p. 11.

¹⁸ Opening Comments of Jan L. Reid at p. 13.

¹⁹ *Id.*

III. CONCLUSION

For the above reasons, DRA supports the PD, and urges the Commission to adopt it with the limited changes proposed by DRA.

Respectfully submitted,

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