

**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)

**WOMEN'S ENERGY MATTERS
REPLY COMMENTS RE PROPOSED DECISION TRACK II**

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Women's Energy Matters (WEM) appreciates this opportunity to reply to comments on the Proposed Decision (PD) in Track II.¹ Pursuant to Rule 14.3 of the Rules of Practice & Procedure, we focus on factual, legal or technical errors in the PD.

Recommended Changes to PD

WEM recommends that the Commission modify the final decision in this proceeding as follows:

- The decision should ensure *real* compliance with the Loading Order (not just lip service) by removing arbitrary barriers to preferred resources as follows:
 - recognize that certain demand resources can supply equivalents to specific operational characteristics required of supply side resources such as “ramping” and “dispatch;”
 - allow demand resources equal opportunity to compete against supplies;
 - recognize that EE and DR can be rapidly deployed for short and medium term procurement;
 - declare that eligibility of demand resources to compete in procurement solicitations must be addressed in the LTPP, not separate resource proceedings;
- The decision should explicitly require utilities to follow the loading order in all energy procurement transactions, as well as capacity. To this end, utilities must develop internal procurement processes that allow preferred resources to be considered.
- The decision should state that it takes into account all EE and DR in the context of procurement – not just EE and DR *programs*.
- In the discussion of cost caps for PG&E, the decision should recognize WEM's discussion of effective procurement planning, and our concerns about PG&E's overprocurement.
- The decision should state that WEM's proposal to shut down nuclear power plants (and our proposals for how to replace nuclear power without raising rates or increasing GHG emissions) will be addressed in the Track I decision and/or in a separate proceeding, rather than allowing IOUs to assume that WEM's proposals were rejected.

¹ WEM was unable to file opening comments on the PD, therefore we include our specific recommendations for changes in the PD here, in context of our reply comments.

PD fails to ensure compliance with Loading Order

CBE states that the PD correctly applies the Loading Order to Procurement. CBE, p. 1. WEM disagrees. Although the PD exhorts utilities to improve compliance with the Loading Order, it fails to address arbitrary barriers to preferred resources that must be removed.

Remove “Operational characteristics” that arbitrarily disqualify demand resources

The PD should remove the arbitrary barrier of “operational characteristics” required of supply side resources that are used to disqualify many preferred resources. For example:

The open position will generally include specific operational needs not met by the existing resources in PG&E’s portfolio, such as ramping and dispatch capabilities.²⁹ Preferred resources often fail to meet these operational needs. PG&E, p. 9.

The Commission should require utilities to recognize that certain demand resources can supply equivalents to these operational characteristics. It is simple common sense that more efficient air conditioning would supply the equivalent of “ramping and dispatch” capabilities — because in fact the air conditioning *is the load* that requires “ramping up” and rapid “dispatch.” *The need for resources that can be dispatched and ramped up and down is directly reduced by the amount of reduction of air conditioning load supplied by energy efficiency (EE).*²

WEM supplied the ISO-New England Manual for Measurement of Demand Resources, as examples of how other regions determine what characteristics of demand resource make them equivalent to supply side resources.

Grid-compatible demand resources must have an equal opportunity to compete

Utilities’ procurement processes must be pried open to allow demand resources to compete; otherwise the PD’s commitment to the Loading Order is just lip service.

PG&E derides the PD’s “vague and ambiguous terminology” that EE and DR should be “feasibly available and cost-effective...” and can be “reasonably procure[d].” PG&E, pp. 10.

² WEM explained that air conditioning load can be reduced by various means, including more efficient air conditioners, “shell” measures like better insulation, white roofs, or planting trees that reduce the outdoor/indoor air temperature.

Supply side resources are determined to be “feasibly available,” “cost-effective,” and “reasonably procured” by simply allowing them to compete, and comparing bids against each other. Demand resources should have an equal opportunity to compete, as WEM proposed in our Alternate BPP. Many EE resources are cheaper than any supply-side resources, so “cost-effectiveness” would be obvious.

The feasibility, availability, and ability of EE to be “reasonably procured” should be backed up by penalties for non-performance, equivalent to those imposed on supply-side resources.

AB 57 mandates the use of “all available EE and demand reduction:”

PU Code 454.5 (b)(9)(C) The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

It would be a mistake to assume that IOU-administered EE programs capture all available EE. WEM recommends that the Commission simply test this assumption by providing opportunities for EE developers to bid against supplies in all types of supply side markets. Competition is almost certain to reveal potential that IOUs have ignored.

The PD must recognize that EE and DR can be rapidly deployed for short and medium term procurement

PG&E makes the incredibly spurious claim that “preferred resource programs, such as EE and DR, generally take a substantial amount of time and money to develop and implement, and cannot simply be procured on a short term basis to meet customer needs.” PG&E, p. 10. To support that claim, PG&E cites the CPUC’s 3-year program cycles for EE and DR programs.

The company fails to admit that utilities had one-year EE program cycles prior to 2003, or that it claims EE savings in the first months of the first year of each cycle. It’s true that PG&E arbitrarily drags out the process to apply and launch programs, but this has nothing to do with the capability of the resource. As WEM pointed out in its Track II Reply Testimony pp. 4-5, Standard Offer programs in Texas require only 2 weeks’ application process and the work is completed and measured in less than a year.

EE program cycles are not set in stone, and EE work can be performed outside of EE programs. WEM recommended in our testimony that the Commission allow EE resources to compete, outside of the framework of EE programs.

Grid-reliable EE and DR are in-scope and should be addressed in LTPP

PG&E argues that EE and DR “should be addressed in the respective resource proceedings.” PG&E, p. 10, citing the OIR. However the OIR states that “Any procurement-related issue(s) not already considered in other procurement-related dockets ..may be considered... The issue[s] must materially impact procurement policies, practices and/or procedures...” [etc.].³ *Eligibility of specific preferred resources for procurement has not been addressed elsewhere and must be addressed in the LTPP.*

Decision should address IOUs’ internal barriers to procurement of demand resources

SCE claims that the PD mischaracterized its position – that it doesn’t *really* mean it procures only fossil fuel resources for its “open” position once the preferred resources targets have been fulfilled. Rather, it claims “SCE will procure as many preferred resources as can be demonstrated to be cost effective.” SCE, pp. 2-3. (Of course, that’s also SCE’s excuse to claim “flexible compliance” (i.e. failure) to meet the RPS target.)

WEM described Mr. Dagli’s description of SCE’s internal procurement processes, which take place in separate silos which provide no opportunity for consideration of demand resources, and severely restrict renewables as well.⁴ The decision should correct these deficiencies by requiring utilities to develop procurement processes that allow preferred resources to be considered.

The decision should specifically require utilities to follow the loading order in all energy procurement transactions, as well as capacity.

EE “Program activities” not required to be cost-effective — only IOU EE portfolios

With regard to EE and DR, SCE asserts, “the PD recognizes that SCE’s procurement obligation is limited to those program activities that are cost-effective.” SCE, p. 4.

³ OIR, p. 18.

⁴ WEM’s Opening Brief, Track 2, pp. 13-14. Mr. Dagli was SCE’s witness responsible for the non-renewable resource procurement segments of its testimony.

This is erroneous. In EE proceedings, the entire utility EE portfolio is required to be cost-effective. Programs, but individual programs or “program activities” generally have no such requirement.

The PD states, re EE And DR, “We are taking those programs into consideration in the context of procurement.” PD, p. 21. Instead, the decision should say that it takes into account all EE and DR in the context of procurement.

WEM addressed issue of overprocurement and rates

PG&E claims, “no party has asserted that PG&E has procured too much energy and capacity for its bundled customers.” PG&E, p. 3. In fact, WEM questioned IOU overprocurement.⁵ We also said that IOU overprocurement (and failure to plan appropriately) was a cause of high rates.⁶

Decision should state how CPUC will address WEM’s proposals re nuclear power

PG&E points out that the PD failed to mention WEM’s proposals to shut down nuclear power plants, and asks the Commission to explicitly reject all intervenor proposals that were not considered. PG&E, p. 13. There is no reason to assume rejection, however, WEM asks that the decision state that WEM’s proposals re nuclear power (and our proposals for how to replace nuclear power without raising rates or increasing GHG emissions) will be addressed in the Track I decision and/or in a separate proceeding.

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Respectfully Submitted,

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⁵ WEM Track II Opening brief, p. 2, pp. 7-10; WEM Reply brief p. 13.

⁶ WEM’s opening testimony, p. 6, discussion of Deming’s planning techniques.

