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February 6, 2012

Honesto Gatchalian  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Re: Draft Resolution E-4471**

Dear Mr. Gatchalian:

Pursuant to Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission (the Commission), The Utility Reform Network (TURN) offers the following reply comments regarding Draft Resolution E-4471. TURN notes that the large majority of parties filing comments on January 31 including the Investor-Owned Utilities (IOUs), independent generators, customer representatives and others support TURN's recommendation that the Commission simply reject the Draft Resolution (DR). Only one party clearly recommended the DR's adoption the California Independent System Operator (CAISO). These reply comments respond to the CAISO.

### **THE COMMISSION HAS NO TESTED EVIDENCE THAT SUTTER IS NEEDED**

In opening comments the CAISO corrects the DR's description of the Settlement Agreement (SA) that the CAISO and most other parties (including TURN) signed in R.10-05-006. TURN agrees with the CAISO that the SA does not support specific findings with respect to the Sutter Energy Center (Sutter).<sup>1</sup> As TURN stated in its comments, the SA merely states that the analyses of resource needs for renewable integration in 2020 are inconclusive.<sup>2</sup> More specifically, the SA also states:

□This Settlement Agreement does not address the possibility of need to procure currently uncontracted existing resources. Each of the Settling Parties remains free to advocate its individual litigation position on this issue.□<sup>3</sup>

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<sup>1</sup> CAISO Comments, page 2

<sup>2</sup> TURN Comments, page 5. See also page 5 of the SA and page 5 of PG&E's comments.

<sup>3</sup> Settlement Agreement, page 8.

The CAISO highlights the fact that new capacity to integrate renewable resources in 2020 may be justified by one of the five CPUC-specified scenarios it analyzed.<sup>4</sup> However, the Commission must remember that the SA was filed *before* the deadline for intervenor testimony in the LTPP. As a result, intervenors (including TURN) did not have a meaningful opportunity to offer specific critiques on the scenarios and the overall CAISO modeling exercise.<sup>5</sup> In prepared testimony served after the SA was filed, TURN witness Woodruff explained that

if the SA is adopted, I will raise my concerns about the renewable integration modeling conducted to date informally with the CAISO and other parties and attempt to resolve such concerns before significant modeling effort begins in the first quarter of 2012. If I cannot resolve these concerns and others that may emerge before the CAISO provides its results around March 31, 2012, I anticipate presenting them to the Commission in formal testimony in the 2nd quarter of 2012.<sup>6</sup>

TURN monitored the development of the original CAISO methodology, had significant concerns with the modeling and inputs, and believes that the model cannot be relied upon to authorize any additional procurement at this time. For example, during hearings TURN witness Woodruff explained that the "all-gas scenario" modeled by the CAISO produced anomalous, counterintuitive and problematic results.<sup>7</sup> The CAISO and other parties have spent considerable effort over the last five months reviewing the methodology and inputs.<sup>8</sup> If the CAISO does not adequately address the concerns raised by TURN and other parties, the Commission should anticipate continued litigation disputes over the reasonableness of the inputs, assumptions and methodologies. Such litigation could significantly delay the ability to reach any meaningful conclusions regarding capacity need in 2017, 2020 or beyond.

The Commission must therefore recognize that the original CAISO LTPP testimony contains very controversial assumptions that have been shown to produce extremely questionable results. Further, the CAISO LTPP testimony assessed need only for the year 2020, the target year for reaching the 33 percent renewable portfolio goal. The CAISO's suggestion that LTPP testimony supports a finding of conventional resource need by 2017, when renewable energy procurement progress targets are expected to be 27 percent<sup>9</sup>, has no basis in any record evidence.<sup>10</sup> The CAISO assertion that additional

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<sup>4</sup> CAISO Comments, p. 2.

<sup>5</sup> During evidentiary hearings, TURN witness Woodruff did express some of his concerns in response to cross-examination from a non-settling party and the Administrative Law Judge. (Reporter's Transcript, 441:3-444:28, 479:18-480:24 and 483:13-484:10)

<sup>6</sup> R.10-05-006, Prepared Direct Testimony of Kevin Woodruff on behalf of TURN, Ex. 1504, page 2.

<sup>7</sup> R.10-05-006, Reporter's Transcript, pages 442, 480, Woodruff.

<sup>8</sup> See pp. 4-5 of the SA. The CAISO's most recent market notice on this process is available at [http://www.caiso.com/Documents/RenewablesIntegrationStudyResultsPostingRescheduled2\\_7\\_12.htm](http://www.caiso.com/Documents/RenewablesIntegrationStudyResultsPostingRescheduled2_7_12.htm)

<sup>9</sup> D.11-12-020, Ordering Paragraph #3.

resource need exists by 2017 or 2018 is based exclusively on an additional analysis that, to TURN's knowledge, was first made public in December when the CAISO announced its desire to issue a contract to Calpine.<sup>11</sup>

Since this new CAISO analysis has not been vetted by the Commission or other stakeholders, and in light of serious potential deficiencies in the CAISO modeling conducted for the LTPP, it would be unreasonable to rely upon it for purposes of requiring any new contractual commitments. The evidence presented to date to this Commission offers no basis to support a finding of need for Sutter before 2020. The Commission should therefore disregard the CAISO's proposed modifications and reserve judgment regarding any demonstrations of future need. There is no justification for concluding that Calpine's Sutter plant is needed in 2020 or in any prior year.

### **THE COMMISSION SHOULD NOT ABDICATE ITS ROLE AS LONG-TERM GENERATION PLANNING AUTHORITY**

The Commission has a responsibility to serve as the primary decision-maker regarding long-term generation planning for the Investor-Owned Utility (IOU) served loads. The DR represents an abdication of this role by merely proposing a controversial measure based on the preferences of the CAISO and supported by an unreviewed study. Rather than parroting the CAISO's preferences, TURN urges the Commission to pursue its own course on generation planning issues consistent with its Constitutional and statutory authority, and do so as quickly and deliberately as possible.

In this instance, the Commission should realize that the CAISO's representations are not undisputed matters of fact or professional judgment. Moreover, there are potentially serious consequences that could result from requiring the IOUs to execute a contract with Sutter. Not only would ratepayers be forced to provide a bailout to a relatively profitable corporation but this action would induce large numbers of generators to seek similar treatment in the near future.

TURN urges the Commission to reject the DR.

Sincerely,

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<sup>10</sup> See CAISO Comments, p. 4, for its proposed change to the DR's Finding of Fact 11. The original language of the DR was also incorrect to imply that the CAISO's LTPP testimony identified any need for Sutter in 2017.

<sup>11</sup> See

[http://www.caiso.com/Documents/Basis\\_Need\\_CapacityProcurementMechanismDesignation\\_SutterEnergyCenter.pdf](http://www.caiso.com/Documents/Basis_Need_CapacityProcurementMechanismDesignation_SutterEnergyCenter.pdf).

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Service List to Draft Resolution E-4471