

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corporation,)	Docket No. ER12-897-000
)	
)	

**MOTION TO INTERVENE AND PROTEST
OF
PACIFIC GAS AND ELECTRIC COMPANY**

Pursuant to the Combined Notice of Filings #1 dated January 26, 2012, and Rules 211, 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211, 385.212, 385.214 (2011), Pacific Gas and Electric Company (PG&E) hereby respectfully moves to intervene in the above-captioned proceeding, and provides its protest.

PG&E respectfully recommends that the Commission reject the California Independent System Operator's (CAISO) request for authority to procure 525 MW of capacity from the Sutter Energy Center (Sutter plant) for the remainder of 2012.

- The CAISO's proposed action would not address the concern that the CAISO articulates as the justification for its extraordinary request, that the Sutter plant will be off line at the end of 2017;
- The CAISO's proposed action would infringe on the California Public Utilities Commission's (CPUC) statutory obligation to address long term resource reliability, currently being evaluated in the CPUC's Long Term Procurement Plan proceeding;
- The CAISO's proposed action could undermine the resource adequacy market in California;

- The CAISO's proposed action would not allow other, possibly better supply or demand side options any opportunity to meet the need the CAISO perceives at the end of 2017;
- The CAISO's proposed action would extend the reach of the Capacity Procurement Mechanism in the CAISO's Tariff far beyond its intended purpose; and
- The CAISO proposed action would prejudge the CAISO's own, just initiated "flexible capacity procurement" stakeholder process.

In further support of its protest, PG&E states as follows:

I. SUMMARY OF CAISO'S FILING

The CAISO has requested permission to procure 525 MW of capacity for the remainder of 2012 from the Sutter plant, an existing flexible, combined cycle facility owned by Calpine Corporation (Calpine). The CAISO's tariff does not provide the CAISO with the authority to procure this capacity.

The CAISO bases its request on its opinion that at the end of 2017 additional resources may be needed in California, and its belief that the Sutter plant will be shut down in 2012 if Calpine does not receive additional funds from some source in return for not shutting down the Sutter plant in 2012. The CAISO proposes to designate the Sutter plant as Capacity Procurement Mechanism (CPM) capacity for 2012.

II. INTERVENTION

The exact legal name of movant is Pacific Gas and Electric Company. PG&E is a corporation organized and existing under the laws of the State of California and has its principal place of business at 77 Beale Street, San Francisco, California 94105. All communications with

PG&E regarding this matter should be addressed to the following persons:

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PG&E further requests that an additional copy of any correspondence and orders be sent to:

Pacific Gas and Electric Company
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PG&E is an investor-owned public utility subject to FERC regulation under the Federal Power Act. PG&E is a “Participating Transmission Owner” in the CAISO market structure and has conveyed operational control of its electric transmission facilities to the CAISO. As a “Scheduling Coordinator” certified by the CAISO, PG&E schedules transmission and purchases and sells electricity and ancillary services through the CAISO’s markets. PG&E is also a “Load Serving Entity” in California, providing natural gas and electric service to approximately 10 million customers throughout northern and Central California. PG&E serves its electric customer load through its own generation facilities, which include hydroelectric, nuclear and fossil fuel plants; through bilateral procurement contacts; and through purchasing electricity from the CAISO’s wholesale markets, including spot markets. Accordingly, PG&E plays a large

^{1/} For overnight deliveries to PG&E, please use the following address: *Pacific Gas and Electric Company, 77 Beale Street, Room 3059, Mail Code B30A, San Francisco, CA 94105.*

role in nearly every aspect of the electric transmission, energy and ancillary services markets within the CAISO's control area.

PG&E's interests will be substantially and uniquely affected by the disposition of this case. As a Participating Transmission Owner, Scheduling Coordinator and Load Serving Entity, any change to the FERC orders and the CAISO Tariff will directly affect PG&E. PG&E therefore has a direct and immediate interest in the issues in this proceeding.

III. PROTEST

A. The CAISO Proposal To Provide A Revenue Stream To Calpine For The Remainder Of 2012 Would Do Nothing To Ensure That The Sutter Plant Will Be On Line When The CAISO Sees A Possible Need For It, At The End Of 2017

The CAISO's proposal should be rejected for a number of reasons. One is that the CAISO's proposal would not accomplish the CAISO's stated goal, to address a "capacity gap" that the CAISO believes might be in place at the end of 2017.²

The CAISO sees the possibility of a capacity gap developing by the end of 2017. However, the CAISO's proposal does nothing to ensure that the Sutter plant is online in 2017 or beyond. The CAISO's proposal is only to compensate Calpine to keep the Sutter plant on line for the remainder of 2012.

Nothing in the CAISO's filing suggests that the Sutter plant would be on line at the end of 2017 if Calpine receives supplemental, outside-of-market revenues to keep it on line during 2012. To the contrary, Calpine states that it believes the Sutter plant will be uneconomic not only in 2012, but in 2013, as well.³

Calpine states that it plans to shut down the Sutter plant in 2012 if it receives no additional compensation in 2012. By the same logic Calpine has presented to the CAISO, Calpine will close the Sutter plant in 2013 even if the CAISO proposal is adopted, because the

² CAISO Filing, p. 3.

³ See, CAISO Filing, Attachment C, Supplemental Affidavit of Alex Makler, p. 5.

CAISO's proposal would have no effect on the Sutter plant cash flows in 2013 and beyond. Therefore, the CAISO's proposal would do nothing except require funds to be spent in 2012 (for which no net benefits will be received in 2012), in order for the Sutter plant to shut down at the beginning of 2013, anyway.

Since the CAISO's stated goal is to ensure that the Sutter plant is on line at the end of 2017, one can only anticipate that if the CAISO's request were granted, there would be a yearly sequence of additional filings through at least 2017, each requesting authority to provide additional funds to Calpine to keep the Sutter plant alive for another year.

In short, there is no demonstrated benefit to the CAISO's stated request, as it would provide absolutely no assurance that the Sutter plant would be on line at the end of 2017, indeed at any time beyond the beginning of 2013. Therefore, the CAISO's proposal should be rejected.

B. The CAISO Proposal Infringes On CPUC Responsibility For Long Term Planning, Which Is Being Examined In Currently Ongoing California Regulatory Activity

The CAISO filing describes the CPUC's currently ongoing Long Term Procurement Plan (LTPP) proceeding. The CAISO explains that the purpose of the LTPP is to evaluate what is needed to ensure that the California grid can be reliably operated in 2020, especially in light of (1) the anticipated retirement of "once-through cooling" generation units and (2) the anticipated substantial increase of generation from renewable resources expected by 2020 in light of California's mandate that 33 percent of the power consumed in California in 2020 come from such resources.⁴

Under California law, resource adequacy and long term procurement is under the jurisdiction of the CPUC. California Public Utilities Code section 380 provides among other things that the CPUC, in consultation with the CAISO, shall:

⁴ See, CAISO Filing, p. 15.

Facilitate development of new generating capacity and retention of existing generation capacity that is economic and needed.⁵

Consistent with this, the CAISO is an active participant in the CPUC's LTPP.

By making this filing at this Commission, however, the CAISO has acted inappropriately, prejudging the outcome of the CPUC's proceeding. The CAISO is presenting its conclusion, not the CPUC's, that one particular power plant must be on line at the end of 2017. It is possible the CPUC may come to that conclusion in the LTPP, but it has not yet. The CAISO is requesting authority to take steps to implement the CAISO's vision of the long term generation needs in California, regardless of CPUC's determination and/or the outcome of the currently ongoing LTPP.

In the CPUC's LTPP proceeding numerous parties have taken a wide range of positions on the central issue of long term need. Some of those parties disagree vehemently with the CAISO's analysis, presented in detail in the CAISO's filing here, concluding that there may be a capacity gap beginning at the end of 2017. By bringing this question to this Commission and not waiting for the CPUC to complete its ongoing LTPP, the CAISO is infringing upon the CPUC's process and the CPUC's statutory responsibility.

The CAISO's attempt to circumvent California's legitimate statutory authority, authority being actively exercised by the CPUC in the ongoing LTPP, is not appropriate. Therefore, the CAISO's proposal should be rejected.

C. The CAISO's Proposed Action Could Undermine The Resource Adequacy Market In California

Using the short term CPM for long term procurement, as the CAISO seeks authority to do, sets a poor precedent for other similarly situated resources, and could cause a flood of retirement applications. The reasoning the CAISO presents in its filing for providing funds to Calpine for the Sutter plant in 2012 is that every megawatt currently expected to be on line in

⁵ Public Utilities Code section 380(b)(1).

2017, plus a substantial additional amount of capacity (what the CAISO calls the capacity gap), may be needed by the end of 2017.

Further, the CAISO proposes to pay for the Sutter plant at an administratively set price that is substantially above what is being paid in the market for resource adequacy capacity.

Therefore, if the CAISO's request were granted other generators might have the incentive to make "me too" filings with the CAISO, claiming economic hardship and threatening to shut down unless they, too, are given CPM designations. There would be the potential for several thousand megawatts of power plants to make such requests over the next several years. The CAISO could be inundated by requests from generators seeking commitments from the CAISO. Such an outcome could undermine and add substantial costs to the entire resource adequacy market.

The CAISO has not given serious consideration this potential unintended consequence of its proposal. The CAISO proposal should be rejected for this reason, as well.

D. The CAISO's Proposed Action Would Not Allow Other, Possibly Better Supply Or Demand Side Options Any Opportunity To Meet The Need The CAISO Perceives At The End Of 2017

The CAISO identifies a possible need for resources that might arise by the end of 2017, states that the Sutter plant might help to meet that possible need, and therefore asks that it be allowed to provide money to Calpine to keep the Sutter plant on line during 2012.

The CAISO provides absolutely no explanation of why its proposed approach to meeting the need it perceives is a good one. There is little discussion of alternative approaches or of any effort on the part of the CAISO to identify possible alternative approaches, either supply or demand side, by gathering market information or through any other means.

Therefore, even if one were to accept for the sake of argument that the CAISO had made the case that the CAISO should be procuring resources now in anticipation of a possible generation gap at the end of 2017, the CAISO's proposal should be rejected because the CAISO

has made no showing that the path it proposes makes sense compared to alternatives that might be available.

E. The CAISO's Proposed Action Would Extend The Reach Of The Capacity Procurement Mechanism In The CAISO's Tariff Far Beyond Its Intended Purpose

The CAISO has not offered any strong rationale to justify the significant capacity procurement authority it is requesting. Currently, the CAISO's CPM allows the CAISO to look forward into the next year to determine if a unit is at risk of retirement, and to provide it compensation if it is critical, from the CAISO's perspective, that the unit remain on line for the following year. When it sought this CPM authority the CAISO described use of it as a last resort, emergency measure, stating:

While the existing CPM designations are used infrequently, the ISO intends that the proposed CPM designation for a resource at risk of retirement will be a last resort, backstop measure, akin to breaking the glass in case of emergency. The ISO will issue this CPM designation only in very limited circumstances. . . .⁶

Now, the CAISO would like the Commission to authorize the CAISO to use the CPM to reach forward not just one year, but several years into the future, to address long term planning issues. There is nothing in the CAISO showing demonstrating that the CAISO is attempting to address an emergency. Nor has the CAISO shown that keeping the Sutter plant on line is a "last resort" to address the possible capacity cap the CAISO suggests might occur by the end of 2017 if nothing is done in the interim.

The CAISO is asking to be allowed to use the CPM to substitute its vision of long term need for the CPUC's, even though it has not identified an emergency that must be addressed in the immediate future, or made any showing that its proposal is a "last resort" to maintain system

⁶ Docket No. ER11-2256, December 1, 2010, CAISO Filing Letter, p. 18.

reliability. The Commission should reject the CAISO’s request to use the CPM for purposes and under circumstances far beyond those for which the CPM was originally intended.

F. The CAISO Proposal Would Prejudge The “Flexible Capacity Procurement” Stakeholder Process The CAISO Has Just Initiated

On January 18, 2012, the CAISO initiated its “flexible capacity procurement” stakeholder process. The stated purpose of the stakeholder process is for the CAISO to establish a “backstop” mechanism to procure “flexible capacity” if needed to ensure system reliability.⁷

The CAISO’s Sutter request puts the cart before the horse. It proposes a specific backstop procurement of flexible capacity to address a possible long term need, to be concluded before the CAISO has worked with stakeholders to develop a reasoned approach to procuring flexible capacity on a backstop basis for this purpose.

Therefore, the CAISO’s proposal should be rejected as premature. The CAISO should be directed to first conclude its flexible capacity backstop procurement stakeholder process.

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⁷ <http://www.caiso.com/Documents/FlexibleCapacityProcurementPaperPosted.htm>.

