

**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

**AES SOUTHLAND, LLC'S COMMENTS ON PROPOSED DECISION ON SYSTEM
TRACK I AND RULES TRACK III OF THE LONG-TERM PROCUREMENT PLAN
PROCEEDING AND APPROVING SETTLEMENT**

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Rulemaking 10-05-006
(Filed May 6, 2010)

AES SOUTHLAND, LLC'S COMMENTS ON PROPOSED DECISION

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, AES Southland, LLC (AES Southland) submits the following opening comments on the Proposed Decision on Track I and Rules Track III of the Long-Term Procurement Plan Proceeding (Proceeding) and Approving Settlement (Proposed Decision) dated February 21, 2012.

I. INTRODUCTION

The August 3, 2011 Settlement Agreement resolving Track I Issues (Settlement) proposed that the Commission extend this proceeding to enable the California Independent System Operator (CAISO) to complete further studies to determine renewable integration and Local Capacity Resource (LCR) needs. The Settlement recommended that a final Commission assessment of need should be issued "no later than December 31, 2012." (Settlement at 6.)

The Proposed Decision would approve the Settlement, but on a basis entirely inconsistent with the purpose of that Settlement. While the Settlement sought to extend the proceeding to allow for further study, the Proposed Decision would approve the Settlement based upon the ground that, with regard to renewable integration, "[i]n

looking at the whole record, it would be reasonable to find that there is no need for additional generation by 2020 at this time, and accordingly it is reasonable to defer authorization to procure additional generation based on system and renewable integration need.” (Proposed Decision at 9.) The Proposed Decision goes even further in a footnote, and states “that the record similarly does not support a finding of need for additional generation beyond 2020. Accordingly, it is also reasonable to defer procurement of generation for any estimated need after 2020.” (Proposed Decision at 9, n. 9.)

That conclusion is contrary to the terms of the Settlement, in which the parties agreed that further study was needed before the Commission could make such a determination. Rather than suggest that there was no need for additional generation based on the limited information and data available during the hearings in this proceeding, the Settlement suggested that any need determination should be made before the end of 2012, only after further study by the CAISO has been completed and considered. The Settlement also laid out a proposed schedule that would allow the CPUC to make a need determination by the end of 2012. Unfortunately, the Proposed Decision fails to adopt the schedule proposed in the Settlement, and makes no provision for future proceedings, virtually ensuring that a need determination by the end of 2012, as proposed in the Settlement, is unattainable. AES Southland therefore urges the Commission to modify the Proposed Decision as follows:

Recommended Revisions

1. Remove any reference to a finding that resources are not needed prior to 2020 (or even beyond), including such references at page 9, footnote 9 on page 9, and on pages 10 through 11.
2. Adopt the proposed proceeding schedule set forth in the Settlement, including a deadline of December 31, 2012 for the Commission to complete a final assessment of need.

II. DISCUSSION

A. The Proposed Decision is Inconsistent with the Terms of the Proposed Settlement

While the Proposed Decision would adopt the Settlement on the ground that it is reasonable because the record supports a finding that no new generation is needed before 2020, that finding is inconsistent with the Settlement. The Settlement proposes an extension of the schedule in this proceeding not because there is no evidence of need, but for the specific purpose of allowing “the Commission, in conjunction with the CAISO’s ongoing work on this subject, to further examine this issue *expeditiously* in the next Long-Term Procurement Plan (LTPP) cycle or in an extension of the current LTPP cycle.” (Settlement at 4 (emphasis added).) The Settlement further states that “[t]here is general agreement that further analysis is needed before any renewable integration resource need determination is made.” (*Id.* at 5.) Thus, “the Commission should, in collaboration with the CAISO, continue the work undertaken thus far in this proceeding to refine and understand the future need for new renewable integration resources, either as an extension of the current LTPP cycle or as part of the next LTPP, which should be initiated expeditiously in the first quarter, 2012 and contain the procedural milestones set

forth in agreement [sic].” (*Id.*) The procedural milestones set forth in the Settlement include a recommendation that the Commission provide, “[d]uring the second quarter, 2012, ...a process for parties to conduct discovery, serve testimony and participate in an evidentiary hearing on the CAISO’s renewable integration model and study results.”

(*Id.*) “Setting Parties further recommend that a final Commission assessment of need or a decision should be issued no later than December 31, 2012.” (*Id.*)

Far from supporting the view that the record supports a finding of no need, the Settlement recommends an expedited process designed to incorporate the latest CAISO studies to determine whether any such need exists. As discussed in more detail below, the evidentiary record in this proceeding shows that the Commission must issue a procurement decision by the end of 2012 in order to allow for timely development of new capacity to meet that need. For that reason, the Settlement proposed a detailed schedule to allow the Commission to make the necessary decision in a timely manner. Unfortunately, the Proposed Decision fails to address the suggested timeline, and instead prematurely concludes on the basis of an admittedly incomplete record that the record supports a finding of no need.

B. The Proposed Decision Unnecessarily Reaches Substantive Conclusions About the Need for Additional Resources in 2020 and Beyond

The Settlement was filed prior to the evidentiary hearings on Track I issues. As the Proposed Decision notes, the Settlement had the support of most of the active parties in this proceeding, “including parties whose interests are not generally aligned.”

(Proposed Decision at 5). As described by the Proposed Decision, the Settlement would “defer determination of the core issue in this proceeding: the utilities’ future need for additional generation.” (*Id.*)

Though the Proposed Decision concedes that this “substantive issue was not fully litigated,” it goes on to reach conclusions, based on an admittedly incomplete evidentiary record, concerning the “core issue” of this proceeding: the utilities’ future need for additional generation. The Proposed Decision rests its approval of the Settlement on the conclusion that “in looking at the whole record, it would be reasonable to find that there is no need for additional generation by 2020 at this time, and accordingly it is reasonable to defer authorization to procure additional generation based on system and renewable integration need.” (Proposed Decision at 9.) The Proposed Decision goes on to make findings that go well beyond the issues of this proceeding, stating that “it is important to note that the record similarly does not support a finding of need for additional generation beyond 2020. Accordingly, it is also reasonable to defer procurement of generation for any estimated need after 2020.” A few pages later, the Proposed Decision again restates its finding that “[t]he record clearly supports a conclusion that no new generation is needed by 2020, and the record does not clearly support a conclusion that new generation is needed even after 2020.” (Proposed Decision at 10-11.)

These conclusions regarding the record evidence on the “core issue” of this proceeding are inappropriate at this stage of the proceeding. As the Proposed Decision notes, this issue was not fully litigated as the result of the Settlement and accompanying Motion for Suspension of Track I Schedule; Settling Parties were not obligated to submit testimony on the issues addressed by the Settlement. (August 4, 2011 E-mail Ruling of ALJ Allen.) Nor is such a determination necessary to approve the Settlement. The Proposed Decision should therefore be revised to remove any reference to the record

supporting a conclusion that no new generation is needed by 2020, or thereafter, including removal of the references cited above.

C. The Proposed Decision Fails to Address LCR Need

The Proposed Decision states that the core issue of additional resource needs “appears to be primarily driven by the necessity to integrate higher levels of renewable generation onto the system, in anticipation of a 33% renewable portfolio standard (RPS) target.” (Proposed Decision at 5.) The Proposed Decision, in addressing the Settlement, fails to address the other key driver of need—the need to replace existing local capacity resources that rely upon once-through cooling, especially in SCE’s service territory. (R.10-05-006 at 9.) There is extensive evidence in the record submitted by multiple parties, including the CAISO, that establishes a need for replacement resources prior to 2020.

AES Southland’s three gas-fired generation facilities in Southern California Edison’s (SCE) service territory (AES Huntington Beach, AES Redondo Beach, and AES Alamitos) supply 4,140 megawatts (MW) of local capacity, accounting for approximately 50 percent of the net qualifying capacity in the transmission-constrained Western sub-area of the LA Basin Local Capacity Area (LCA). All of these units use once-through cooling (OTC) technology, and therefore must comply with the California Water Resources Control Board’s (Water Board) Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (OTC Policy) by December 31, 2020. (Ex. 1701 at 1-2 (AES, Didlo).)

Electric Power Engineers (EPE), third party transmission experts, performed an analysis to study the effect of the possible retirement of generation in Huntington Beach,

Alamitos, and Redondo Beach as a result of the OTC Policy. (Ex. 1700 at 1 (AES, Ballouz).) That analysis established the significance of these three locations in relieving major transmission constraints within the Western sub-area of the LA Basin LCA and further showed that redevelopment at some or all of these locations is essential for effective relief of otherwise major transmission constraints within the Western LA Basin area. (*Id.* at 2.) EPE's analysis (based on the CAISO Portfolio 4 assumptions, including generation under construction in the LA Basin, the 33% RPS, and transmission projects that are planned or in development) showed that approximately 2,300 MW will be required at these three locations to reliably serve loads in the Western sub-area of the LA Basin LCA in the most cost effective manner. (*Id.* at 4.) If resources are installed at alternative locations, EPE's analysis determined that considerably more than 2,300 MW of generation will be needed. (*Id.*)

Furthermore, SCE's testimony shows a base LCR need in the LA Basin LCA of approximately 2,000 MW, with the low case need being approximately 500 MW and the high case need being approximately 6,500 MW when OTC resources are retired. (Ex. 209 at 18 (SCE, Minick).) SCE's analysis was based upon an assumption that the 750 MW Sentinel facility was located within the LA Basin LCA. (*Id.* at 16.) The 2010 LTPP Standard Planning Assumptions identify the Sentinel facility as being outside the LA Basin LCA, and particularly outside the Western LA Basin, and therefore the Base Need deficiency as calculated in SCE's testimony of approximately 2,000 MW is actually 2,750 MW. (Ex. 1700 at 4 (AES, Ballouz).) Finally, in Portfolio 4, which the CAISO says is the most likely scenario, there are 2,000 MW of repowered OTC facilities imbedded in the assumptions (Tr. 837:2 – 6 (AES, Didlo).). The CAISO recognized that

even this level of repowered OTC does not fully “solve” the local needs and that incremental generation at existing locations is needed.

Therefore, the evidentiary record is clear that SCE needs to procure local capacity resources in the Western LA Basin LCA based on numerous studies using a wide variety of assumptions.

D. LCR Need Should be Determined Prior to Assessing Renewable Integration Need

The Proposed Decision on Track I focuses almost entirely on the need for new resources to integrate renewables and largely ignores LCR need. If the Commission proceeds to determine and fulfill the renewable integration need prior to meeting LCR needs, there is significant risk that utilities will have to over-procure new generation resources. The physical location of resources needed to provide renewable integration is flexible, but the location of resources needed to satisfy LCR is not. Therefore the Commission could authorize procurement for resources to meet the renewable integration needs, but if these resources are not ultimately constructed in the right locations then additional capacity will need to be procured to satisfy the LCR need. The need for new resources, and thus the cost to the consumer, is minimized if the LCR requirement is assessed and satisfied first. The new LCR capacity will have the additional operating flexibility needed to integrate renewables and it will also have the added benefit of satisfying the local reliability needs. Once the LCR need is satisfied, any incremental operating flexibility that is required for renewable integration can be resourced and it will not have the locational constraints associated with capacity that is needed to satisfy the LCR. This sequencing will lead to the least cost-best fit resource procurement and the fewest new MWs required. The Commission, relying on CAISO studies, should

therefore determine LCR needs by the end of 2012 and then assess what additional renewable integration needs exist in 2013.

E. The Commission Should Adopt the Proceeding Schedule Set Forth in the Settlement

Evidence submitted in this proceeding by AES Southland and others establishes that the Commission must authorize procurement to meet SCE's LCR needs by the end of 2012 to allow for the timely development of new resources to replace the significant amounts of capacity that is expected to retire, including AES Southland's generation facilities. AES Southland has projected that it will take seven years, at a minimum, to contract, permit and construct replacement generation facilities. (Ex. 1701 at 4 (AES, Didlo). Moreover, AES Southland can't retire all of its generation prior to constructing replacement resources, as this will result in the loss of a significant amount of the net qualifying capacity in the western sub-area of the LA Basin LCA. Instead, redevelopment at the existing sites must proceed in a manner that allows AES Southland to keep a substantial amount of its local generation in service throughout the construction period, so that local area reliability can be maintained and construction can occur within the land that is available.

The evidence submitted by AES Southland concerning the timeline needed for new resource development is consistent with the evidence submitted by other parties to this proceeding. GenOn California North, LLC provided detailed public information in its opening brief on Track I and Track III issues concerning the timeline for developing its Marsh Landing project, a "relatively non-controversial project that received approval without substantial active opposition." (GenOn Brief at 5-9.) Yet that project will take more than five years from the date that Pacific Gas & Electric's Long Term Request for

Offers was issued to achieve commercial operation. SCE's own testimony states that bids for new generation must be selected "by the end of 2012 in order to ensure that this new generation will have sufficient time to come on-line." (Ex. 211, SCE-3.) It is worth noting that both GenOn's and AES's estimates are best case scenarios. Project development could take far longer to accomplish, as evidenced by the lengthy development timeline of other sites in California. As the CAISO's Mark Rothleder testified, there is "an urgency" in determining what SCE's LCR need is, so that the necessary generation can be developed in time. (Tr. 360:7 – 10 (CAISO, Rothleder.) Given the lengthy timeline and challenges associated with developing a power plant in California, it is extremely important that the Commission follow the recommendations set forth in the Settlement concerning the schedule for this proceeding.

III. CONCLUSION

The Proposed Decision should be modified to remove any premature conclusions concerning the evidence of need prior to, or even after, 2020. The Commission should instead adopt the proceeding schedule set forth in the Settlement to ensure that at a minimum the Commission issue an LCR need determination by the end of 2012.

DATED: March 12, 2012

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VERIFICATION

I am the attorney for AES Southland, LLC (AES Southland), and am authorized to make this verification on AES Southland's behalf. AES Southland is unable to verify the foregoing document in person as AES Southland is located outside of the County of San Francisco, where my office is located. I have read the foregoing **AES SOUTHLAND, LLC'S COMMENTS ON PROPOSED DECISION ON SYSTEM TRACK I AND RULES TRACK III OF THE LONG-TERM PROCUREMENT PLAN PROCEEDING AND APPROVING SETTLEMENT** and am informed and believe, and on that ground allege, that the matters stated are true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12th day of March, 2012, at San Francisco, California.

/s/ Seth D. Hilton _____

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