

**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 ON PROPOSED DECISION**

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Barbara George, Executive Director
Women's Energy Matters
P.O. Box 548
Fairfax CA 94978
510-915-6215
wem@igc.org

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¹ WEM was unable to include the Table of Authorities in its Opening Comments. We provide it here, for both Opening and Reply Comments.

SUMMARY OF ADDITIONAL RECOMMENDATIONS

(WEM adds the following refinements and additions to the recommendations presented in our 3-12-12 Opening Comments.)

WEM recommends that the final decision order IOUs to begin reporting [information on their distribution systems] by June, 2012; and that the successor to this proceeding create a pathway to incorporate resources located on the distribution system into resource adequacy.

WEM recommends that the Commission specify reporting requirements that correlate these resources to substations rather than customer addresses, in order to preserve customer confidentiality and provide for direct inclusion into ISO models, this year.

WEM recommends that the Commission ensure that preferred resources are allowed to compete, by adopting WEM's proposal for measuring demand and DG resources according to ISO-New England guidelines, and requiring utilities to entertain bids from providers of demand-side and DG resources in all their competitive solicitations.

WOMEN’S ENERGY MATTERS
REPLY COMMENTS ON PROPOSED DECISION

Women’s Energy Matters (WEM) appreciates this opportunity to reply to parties’ opening comments on the 2-21-12 Proposed Decision in Tracks 1 and 3 (PD).

CAISO’s objections to the Proposed Decision would invalidate settlement

CAISO asserted that the PD misconstrued the settlement. It said that settling parties agreed to extend studies into 2012 in this LTPP or a successor docket, “in order to consider updated information about system and local needs driven by the retirement of OTC generation... [This] is different [than] the open-ended “punting” of the issue of system need into other LTPP dockets not specifically described in the PD.” CAISO said settling parties agreed to “[defer]the issue of system need to an expedited process that would issue a decision by the end of 2012.” CAISO, p. 3.

CAISO particularly objected to the PD’s conclusions that “‘it is reasonable to find that there is no need for additional generation by 2020 at this time’ and that the record ‘similarly does not support a finding of need for additional generation beyond 2020.’”² On the contrary, CAISO stated:

At this point, however, it has become apparent that there are local area capacity needs for new or repowered flexible generation well before 2020 that are driven by the OTC requirements and the likelihood that existing generation may retire by the end of 2017. The ISO’s OTC studies show that the Commission must authorize procurement of local resources, either new or existing resources, that will comply with the OTC requirements by 2020, on an expedited basis. Ibid, p. 4.

CAISO departed from the settlement in three significant respects: 1) insisting that new generation *would* in fact be needed before 2020; 2) recommending a decision by the end of 2012 on the need for new or repowered generation in the LA Basin, Big Creek/Ventura and San Diego local capacity areas; and 3) recommending deferring the decision on overall system needs to 2013. Ibid, pp. 2, 6.

These are major, substantive changes. It is unclear why ISO affirmed the settlement agreement. Why not simply withdraw from it? ISO’s alterations would require reconvening the settling parties to update their agreement. Several other questions also arise. ISO said it served testimony in the San Diego proceeding A1105023 but didn’t discuss the potential

² CAISO, p. 3, quoting the PD, p. 5.

overlap between that proceeding and its proposal for an expedited local area capacity decision in 2012 in this or a successor docket. ISO also failed to comment on the PD's rationale, in the section rejecting Calpine's proposal, that OTC generation would not be allowed to shut down if it were needed for reliability³ — although ISO expressed concern about delaying the compliance schedule for California's OTC policy. Ibid, p. 2.

*Oddly, the ISO failed to note the elephant in the room: nuclear outages. Why are IOUs, CPUC and ISO acting like nuclear problems are a hush-hush family secret, like a parent's binge drinking? Doesn't AB57 mandate transparency? Is ISO's heightened concern about replacement for OTC plants driven in part by the need to use them if San Onofre remains unavailable through the summer and beyond?*⁴

CAISO and the Commission should address nuclear reactor outages

To support its recommendations, CAISO cited its OTC studies, which were “released as part of the 2011-2012 Transmission Plan on January 31, 2012;” and additional studies, including updated Local Capacity Requirements, which would be made available around March 31st — as settling parties agreed. Ibid, p. 4.

This evidence is not part of the record, and has not yet been vetted by comments or hearings. **Rule 13.14 would require a motion to reopen the record, if the decision were to rely on this new evidence for substantive changes — especially to overturn major aspects of the settlement.**⁵

ISO could have made very similar points based on evidence that *WEM did raise on the record* — regarding the urgent need to plan for nuclear reactor outages. WEM's discussion in its opening comments on the PD about the outages of both San Onofre reactors does not require reopening the record, because this new information merely supports and amplifies what's already there, by pointing out that we are faced with the exact situation that WEM raised as a possibility that should be considered. The fact that S.O. is currently offline

³ PD, pp. 13-16. The PD relied in part on PG&E's Opening Brief at 13-14.

⁴ CAISO's 2010-11 Transmission Plan stated that San Onofre nuclear outages could be completely mitigated by the OTC plants, through 2020. CAISO 2010-11 Transmission Plan, approved May 18, 2011, pp. 155, 195.

⁵ **Rule 13.14** (b) states:

A motion to set aside submission and reopen the record for the taking of additional evidence, or for consideration of a settlement under Article 12 shall specify the facts claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence, and explain why such evidence was not previously adduced.

and Edison is uncertain when it will be restarted is a reality that cannot be disputed, unlike ISO's new OTC modeling. It is also uncertain what resources will replace San Onofre — a matter that should be explored in this or a successor docket.⁶

WEM happens to disagree with ISO's estimate that replacement generation would necessarily take 7+ years to identify and build. CAISO, p. 5. Pursuant to the Track 2 decision (D1201033), the utilities must follow the loading order in *all* procurement. Most demand-side resources, DG, CHP and small renewables can be built more quickly than fossil fuel power plants — some in a matter of just weeks or months.

In addition, there is already more local capacity than ISO recognizes. As WEM demonstrated in its testimony, briefs, and cross-examination ISO and utilities need to *start counting* as part of local capacity everything that's connected to IOU distribution systems, including demand-side resources (whether these are incorporated into the model as demand or as supply, as WEM recommends.) Currently, the amounts and locations of energy efficiency (EE) and local solar resources remain secret, and cannot be modeled as part of local supply or demand.

WEM recommends that the final decision order IOUs to begin reporting this information by June, and that the successor to this proceeding create a pathway to incorporate resources located on the distribution system into resource adequacy.

WEM recommends that the Commission specify reporting requirements that correlate these resources to substations rather than customer addresses, in order to preserve customer confidentiality enabling direct inclusion into ISO models, this year.

A Wall Street Journal article this weekend demonstrated the urgent need for an expedited, public process to plan replacement resources for San Onofre. SCE's haphazard, vague, ad hoc improvisations ignore the loading order, and show that adult supervision is sorely needed, right away:

SoCal Edison said it was taking the ruptures seriously, and was looking for alternative power sources to serve customers. The utility said it would continue testing more than 120 similar tubes before making a decision as to how or when it might restart the plant.

⁶ WEM's Opening Comments discussed the 2010-11 Transmission Plan (also cited in footnote above) in the context of unresolved questions about the need for replacement resources. WEM, pp. 1013. We weren't able to use it in cross-examination in 2011, but hope to explore the issues it raised in relation to Local Area Requirements as these proceeding(s) go forward.

The utility was considering voluntary conservation measures, beefing up existing transmission lines to be able to ship more power from other areas, upgrading existing power plants to generate more electricity, and even rolling blackouts if the plant was still shut this summer, said Jennifer Manfre, a SoCal Edison spokeswoman.⁷

SCE's claims that the PD's restrictions re OTC plants violates SB695 are baseless

Like ISO, SCE is suddenly very focused on using the OTC plants — perhaps because of the open-ended San Onofre outage, though that's never mentioned. It claims that the PD restrictions violate SB695's "equal rules" clause. SCE, p. 3.

OTC facilities would not fall under SB695 provisions, especially prior to repowering. The mechanism applies to "new generation resources acquired by an electrical corporation to meet system or local area reliability needs." PU Code §365.1(c)(2)(A). The OTC plants are certainly not new, and SCE has previously used them, so they aren't "new generation resources."

Illogically, SCE also worries that competitors would snap up OTC resources, and then claims that OTC plants might shut down prematurely because they can't get contracts with the IOU. SCE, pp. 4-5.

PG&E opposes the Advice Letter requirement on different grounds, claiming that the OTC units would be disadvantaged in the market. (This is certainly not the case with the OTC units SCE wants to use — these are the power plants available in that area.) PG&E states, "Requiring a 6+ month regulatory review process for a transaction that may only be a few months in duration is both unnecessary and will result in substantial delays." PG&E, p. 14. All the more reason to use "demand reduction" resources and DG, as WEM recommended throughout the proceeding. These could be procured quickly, without the additional red tape.⁸

⁷ *California Nuclear Plant Hit by More Failed Tests*, by Cassandra Sweet, 3-16-12 Wall Street Journal http://online.wsj.com/article/SB10001424052702304459804577285333008796666.html?mod=googlenews_wsj

⁸ WEM's proposed "demand reduction" resources go beyond those that are included in IOU portfolios, so they could be accessed outside the time frames and processes associated with EE and Demand Response proceedings. Of course EE program elements could be used for procurement too, if they were appropriately measured to ensure grid-reliability. These are already approved for 2010-12, and will be approved later this year for 2013-14. Utilities have wide latitude for fund-shifting as desired, and no restrictions at all on where they use these resources, geographically,. All EE and DR resources could be targeted at particular local resource area(s), for example, to cover nuclear outages.

WEM supports pre-approval for contracts of less than five years. It is necessary in order to make sure that SCE does not over-procure fossil fuel resources, instead of first trying to access preferred resources, as the Loading Order mandates. CPUC could define truly short-term deals like “spot-market purchases” as an exception to pre-approval, but the exception should be limited to a few days or weeks, because preferred resources (such as demand response or EE) can be provided quickly, and could greatly reduce such needs, reducing costs as well.

WEM recommends that the Commission ensure that preferred resources are allowed to compete, by adopting WEM’s proposal for measuring demand resources according to ISO-New England guidelines, and requiring utilities to entertain bids from demand-side providers in all their competitive solicitations.

Jan Reid’s comments support consideration of nuclear issues

Jan Reid pointed out that state law requires “that Commission decisions be supported by the findings..., and that the findings be supported by substantial evidence in light of the whole record.” Reid, p. 2, citing PUC §1757(a)(3) and (4). He makes a strong case that the Commission must consider nuclear power plants in this decision, at least to open an OII to address the feasibility of closing them, since five parties filed substantial evidence. Reid described both WEM and SCE arguments as “compelling” and noted that public opposition to (new) nuclear power plants in California grew 14% between 2010 and 2011. Reid, p. 5.

While all the utilities argued for ignoring the issue, their own arguments, as quoted by Reid, demonstrate instead that the Commission should expeditiously address it, for example, Reid’s excerpts from SCE testimony portrayed adverse impacts of an immediate shutdown as *inevitable*.⁹ They are only inevitable if there is no attempt to mitigate them.

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Respectfully Submitted,

/s/ Barbara George

Barbara George, Executive Director
Women’s Energy Matters
P.O. Box 548
Fairfax CA 94978
510-915-6215
wem@igc.org

⁹ Reid, p. 3, quoting Exh. 209, pp. 38-41.

