

**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)

**REPLY COMMENTS OF SIERRA CLUB CALIFORNIA 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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Dated: March 19, 2012

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INTRODUCTION

Pursuant to Article 14 of the Commission’s Rules of Practice and Procedure, Sierra Club California (“Sierra Club”) respectfully submits the following reply comments on the Proposed Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement (“PD”).

I. The PD’s Approval and Discussion of the Track I Settlement Agreement Should Not Be Changed.

Sierra Club supports the PD’s approval of the Track I settlement agreement, and the related factual findings made in the PD. Sierra Club supports the position advocated by Natural Resources Defense Council and Vote Solar Initiative that the PD appropriately discusses and approves the Track I settlement.¹ The Green Power Institute succinctly summarizes the importance of the decision:

We agree with the PD (pg. 5) when it says: “The proposed settlement is, in essence, a punt.” We wish to note, however, that while the settlement may be a punt, a great deal of productive effort was invested in getting us to that point, and the PD does not lack a punch. The essential finding stands: At this time, no

¹ Comments of the Natural Resources Defense Council (NRDC) on the Proposed Decision on System Track I and Rules Track III of The Long-Term Procurement Plan Proceeding and Approving Settlement, pp. 1-2; Opening Comments of the Vote Solar Initiative on the Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement, p. 1.

authorization is needed or granted to obtain additional conventional generating resources. That is indeed a significant determination.²

All the parties' comments support the settlement, but some parties quibble with the Commission's independent review of the record. The PD made its own independent findings on the reasonableness of the settlement, as required by Commission rules. (Commission's Rule of Practice and Procedure 12.1(d) ("Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest"). PG&E uses the PD's explanation of its record review to argue that "the PD's summary of the substance of the Settlement is incorrect." (PG&E, p. 3.) PG&E supports this misplaced argument by conflating the PD's accurate description of the settlement with the PD's independent review of the settlement agreement. The PD correctly summarizes, quotes and explains the settlement agreement.³

The PD simply makes independent factual findings that PG&E does not like, because according to PG&E these findings are broader than necessary for approving the settlement.⁴ SDG&E and Independent Energy Producers Association ("IEP") make a similar point.⁵ These parties all miss the PD's point that the Commission has an independent duty to review the record. The factual findings made by the Commission are supported by the record. The Commission should reject PG&E's, SDG&E's and IEP's recommended changes. Sierra Club recommends the PD's section on Track I be adopted as written.

² Comments of the Green Power Institute on the Proposed Decision of ALJ Allen, p. 1.

³ See PD, p. 4-9

⁴ Opening Comments of Pacific Gas and Electric Company (U 39 E) on Proposed Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding, p. 3.

⁵ Comments of San Diego Gas & Electric Company (U 902 E) on Proposed Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement, p. 3; Comments of the Independent Energy Producers Association on the Proposed Decision on Tracks I and III of the Long-Term Procurement Plan Proceeding, pp. 1-3.

II. The PD Should Impose Constraints on Offsets and Allowances.

The PD rightly protects the ratepayers from risks in the developing carbon market. Sierra Club supports the PD's conclusion that

[g]iven the risk inherent in offsets, the additional risk of purchasing other derivative products, and the limited amount of offsets that can be used for compliance, we do not see enough potential benefit to justify the utilities' purchase of offset futures or forwards. Accordingly, the utilities may not purchase offset futures or enter into contracts for the purchase of offset futures.

Sierra Club also supports Pacific Environment's recommendation that allowance forwards should be disallowed.⁶ The Commission should not pre-authorize rate payer expenditure for risky compliance options. For example, SDG&E wants approval of offset forwards to promote financing of offset projects.⁷ Pre-approval of the greenhouse procurement plans should focus on greenhouse gas reductions that can be achieved by the IOUs.⁸ Sierra Club supports the PD's conclusions that IOUs should not speculate in the carbon markets with ratepayer funds, and that imposing limits on offsets is a prudent action.⁹

III. The Commission Should Change How Independent Evaluators Are Hired.

Sierra Club supports the Division of Ratepayers Advocates' and Pacific Environment's point that the Commission should create a mechanism where Energy Division hires independent evaluators, and reduces potential conflicts of interest.¹⁰

⁶ Pacific Environment's Comments on Proposed Track I and III Decision of ALJ Allen, pp. 3-4.

⁷ SDG&E Comments, pp. 8-9.

⁸ *Id.*, p. 2-3.

⁹ *Cf., e.g.*, Opening Comments of Southern California Edison Company (U338-E) on Proposed Decision of Administrative Law Peter Allen, p. 10 (SCE's requests that limits on GHG compliance instruments be removed).

¹⁰ The Division of Ratepayer Advocates' Opening Comments on the Proposed Decision on Track I and Track III issues, pp. 9-10, Pacific Environment, pp. 5-7.

CONCLUSION

The Commission should adopt Sierra Club's recommendations for the reasons set forth above.

Respectfully submitted,

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