

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)
Tracks 1 and 3

REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON THE PROPOSED DECISION OF ALJ PETER ALLEN ON
TRACK I AND TRACK III ISSUES

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**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON THE PROPOSED DECISION OF ALJ PETER ALLEN ON
TRACK I AND TRACK III ISSUES**

Pursuant to Rule 14.13 of the Rules of Practice and Procedure, The Utility Reform Network (TURN) submits these reply comments on the Proposed Decision (PD) of ALJ Allen on Track I and Track III issues. TURN supports the PD without modifications and urges the Commission to adopt it at the next business meeting

A number of parties argue that the Commission should move forward expeditiously to fulfill the Track 1 Settlement provision regarding a final decision on system need by December 2012. While TURN supports swift action, all new CAISO study results should be fully vetted in a Commission-sponsored process. Since the submission of the settlement agreement, TURN has provided feedback to the CAISO urging revisions to the input data and assumptions contained in their evolving model. While achieving a decision by December 2012 is important, it is also critical to ensure that there is sufficient time for parties to review and comment on new CAISO model runs. TURN will fully participate in any upcoming Commission process to review the updated results. Any schedule must provide meaningful opportunities to review and modify these models prior to any final decision.

The PD adopts TURN's proposal to fix "critical cost parameters" associated with any Utility-Owned Generation (UOG) for the first 10 years of operations in order to ensure that expected ratepayer costs can be accurately modeled and compared to PPA alternatives. SCE opposes this ratepayer protection measure and argues that it is "beyond the scope of this proceeding" and therefore cannot be adopted without advance notice that CPCN requirements would be at issue in this docket.¹ SCE's claim is not credible since the March 10, 2011 ALJ ruling specifically included issues

¹ SCE opening comments, page 14.

related to the comparison of UOG and PPA alternatives in Track 3.² Moreover, SCE never objected to, or sought to strike, TURN's written testimony or opening brief on this same topic. Given the fact that this issue was squarely teed up in the proceeding, SCE should not be permitted to sit on the sidelines and wait until opening comments on the PD to raise a concern about scoping. The PD should not be modified on this point.

The opening comments of Calpine attempt to rewrite the careful balance achieved in the settlement by insisting that up to 8,200 MW of new resources could be needed by 2020 and asserting that this possibility calls for immediate procurement to "preserve existing resources".³ Calpine further clarifies that this immediate procurement should focus on its Sutter plant and references the flawed (and heavily criticized) findings in Draft Resolution E-4471 as the basis for modifying the PD. Finally, Calpine argues that the PD fails to consider that "there is no basis in the record to conclude that 'mothballing' an existing resource is a viable option to ensure the future availability of the resource."⁴

Calpine's creative attempts to spin the record to its own benefit should be ignored. Calpine previously proposed a solicitation requirement that would confer instant market power on its uncontracted generating units. In arguing for this mechanism, Calpine threatened to temporarily shut down existing capacity and hinted that any shuttered unit shuttered would be dismantled and moved to another (and more Calpine-friendly) state. Calpine did not provide any compelling evidence for its claims and refused to disclose critical information about the economics of its supposedly threatened plants. More importantly, Calpine never explained why the Commission should allow its units to be entitled to the higher of cost-of-service or

² Administrative Law Judge's Ruling Revising System Track 1 schedule, March 10, 2011, R.10-05-006, page 4.

³ Calpine opening comments, page 2.

⁴ Calpine opening comments, page 6.

market prices. Instead of rewarding Calpine's political machinations and embracing their self-serving solicitation requirement, the Commission should reject Calpine's proposed modifications and approve the PD.

Respectfully submitted,

_____/S/____

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VERIFICATION

I, Matthew Freedman, am an attorney of record for THE UTILITY REFORM NETWORK in this proceeding and am authorized to make this verification on the organization's behalf. The statements in the foregoing document are true of my own knowledge, except for those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I am making this verification on TURN's behalf because, as the lead attorney in the proceeding, I have unique personal knowledge of certain facts stated in the foregoing document.

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

Executed on March 19, 2012, at San Francisco, California.

_____/S/____

Matthew Freedman
Staff Attorney