

**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.

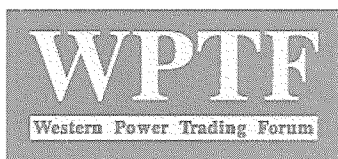
Filed Public Utilities Commission  
March 22, 2012 San Francisco, California  
Rulemaking 12-03-014

**COMMENTS OF THE WESTERN POWER TRADING FORUM  
ON PRELIMINARY SCOPING MEMO**

Daniel W. Douglass  
DOUGLASS & LIDDELL  
21700 Oxnard Street, Suite 1030  
Woodland Hills, California 91367  
Telephone: (818) 961-3001  
Facsimile: (818) 961-3004  
[douglass@energyattorney.com](mailto:douglass@energyattorney.com)

Attorney for  
**WESTERN POWER TRADING FORUM**  
[WWW.WPTF.ORG](http://WWW.WPTF.ORG)

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Pursuant to the directive provided in the March 22, 2012, Order Instituting Rulemaking (“OIR”) and Rule 7.1(d) of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California (“Commission”), the Western Power Trading Forum (“WPTF”)<sup>1</sup> provides the following comments on the Preliminary Scoping Memo in the above-referenced proceeding. The prior docket (R.10-05-006) provided for a three-track proceeding to examine issues related to Long-Term System and Local Reliability Resource Plan (Track I); Investor-Owned Utility (“IOU”) Section 494.5 Bundled Plans (Track II) and Rule and Policy Issues (Track III). The new OIR, however, provides that the Commission will not specify different tracks at this time and instead will preliminarily delineate the issues it intends to consider in the proceeding.<sup>2</sup>

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<sup>1</sup> WPTF is a California non-profit, mutual benefit corporation. It is a broadly based membership organization dedicated to enhancing competition in Western electric markets in order to reduce the cost of electricity to consumers throughout the region while maintaining the current high level of system reliability. WPTF actions are focused on supporting development of competitive electricity markets throughout the region and developing uniform operating rules to facilitate transactions among market participants.

<sup>2</sup> OIR, at p. 5.

WPTF believes that it may be necessary to segregate issues into separate tracks to ensure timely action on the local needs analysis that is a carry-over from the prior LTPP rulemaking (R.10-05-006). While WPTF agrees with the broad classification of issues described in the OIR and restricts these preliminary comments to the list of issues contained in the OIR, it is important that priority consideration is given to the local needs analysis that was not resolved in the prior LTPP. WPTF provides suggestions for other issues that should also be considered within scope of the upcoming proceeding.

#### **I. Long-Term System and Local Reliability Resource Plan**

The OIR states that, “The purpose of the system resource plan is to identify CPUC-jurisdictional needs for new resources to meet system or local RA over a long term planning horizon, including issues related to long-term renewable resource development, and need for replacement infrastructure to eliminate reliance on power plants using OTC.”<sup>3</sup> As a primary issue in this rulemaking, WPTF endorses the schedule identified in the OIR which provides for a decision by year-end 2012, particularly as it pertains to meeting local capacity requirements after the retirement of facilities relying on once-through cooling.

The OIR states that the Commission “will also address broad rule and policy issues related to procurement plans. Specially, we intend to consider issues that were not resolved in Track III of R.10-05-006, and other emerging procurement topics.”<sup>4</sup> In the following Sections, WPTF addresses certain of these issues and makes recommendations as to Commission actions related thereto.

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<sup>3</sup> Id, at p. 7.

<sup>4</sup> Id at p. 9.

## A. Multi-year Flexible Capacity Procurement Rules

The preliminary Scoping Memo provides as follows:

**Multi-year Flexible Capacity Procurement Rules** – We may consider adoption of new rules for forward procurement of flexible resources to support grid reliability, for either local reliability reasons and/or grid integration of renewable resources. In conjunction, we may review our policy and consider refinements to our existing rules concerning long-term contract solicitations.<sup>5</sup>

WPTF believes that this implicitly recognizes the existence of a “procurement gap” that exists between the annual resource adequacy (“RA”) procurement requirements and the ten-year, forward-looking LTPP process. What is missing from the current regulatory process, of course, is a mechanism that looks to the years two through nine gap and the flexibility needs during that period. However, this is an issue ripe for both procedural overlap (i.e., is the issue considered here or in the RA docket?) as well as jurisdictional overlap (i.e., is this to be a Commission issue or a matter for FERC through its regulation of CAISO?).

We note the issue is already at play in the RA proceeding (R.11-10-023) as it was the focus of extensive discussion in the March 30, 2012, Energy Division workshop, which reviewed proposals from both the Energy Division<sup>6</sup> and the CAISO<sup>7</sup> for incorporating flexibility considerations or requirements into the RA program. We do not address the merits of either approach in these comments, as that topic is to be addressed in April 11, 2012, comments in the RA docket. However, it should also be noted that CAISO is conducting a stakeholder process to review and develop a proposal for forward procurement of flexible capacity through a multi-year “backstop” mechanism.<sup>8</sup> In other words, both procedural and jurisdictional overlap may already

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<sup>5</sup> Id, at p. 9.

<sup>6</sup> See, <http://docs.cpuc.ca.gov/efile/RULINGS/162601.pdf>.

<sup>7</sup> See, <http://docs.cpuc.ca.gov/efile/RESP/162107.pdf>.

<sup>8</sup> See, <http://www.caiso.com/informed/Pages/StakeholderProcesses/FlexibleCapacityProcurement.aspx>.

be occurring.<sup>9</sup> Therefore, it is particularly important that the Commission promptly identify which docket will deal with the “gap” issue of multi-year forward procurement of flexibility.

By doing so, the Commission will provide the greater certainty that is needed by market participants. Furthermore, whatever mechanism that is ultimately adopted needs to address multi-year procurement needs on a routine and systematized basis. The program that is ultimately adopted for the procurement of either flexibility or generic capacity needs may need initial refinements after it is implemented. However, there should not need to be a redesign of the process that occurs on a regular basis, as this will complicate the market, increase uncertainty and potentially increase costs to ratepayers.

If the Commission ultimately decides to address flexible capacity procurement in this proceeding, then that issue should be allocated to a phase distinct from that in which the Commission considers local capacity needs. It is not clear that the Commission can resolve an issue as complicated as flexible capacity procurement by year-end 2012, and a decision on local capacity needs should not be delayed on account of the complexity of the flexible capacity issue.

#### **B. Procurement Rules to Comply with SB 695 on the Cost Allocation Methodology**

This is a fundamental competitive market issue, as it impacts the costs that are to be borne by bundled service customers as well as those that have departed bundled service for direct access (“DA”) or community choice aggregation (“CCA”) service. The Commission must determine quickly how the cost allocation provisions of SB 695 will be applied going forward. It is important to adopt a uniform standard and policy for defining and implementing the cost allocation requirements of SB 695 that can be easily understood and applied in all individual

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<sup>9</sup> The preliminary scoping memo at p. 12 explicitly excludes consideration of issues being considered in the RA docket in this rulemaking.

applications and proceedings. Otherwise, inefficient and potentially conflicting standards and protocols could arise, creating market confusion and uncertainty.

WPTF notes that the Cost Allocation Mechanism (“CAM”) is also specifically mentioned in SB 790.<sup>10</sup> Therefore, this issue will also need to be addressed in Rulemaking 12-02-009 concerning implementation of that statute. For reasons of avoiding the same sort of procedural overlap referenced above, the Commission may want to consider having the CAM issue considered solely in that docket as opposed to here in the LTPP context solely. Consideration of the CAM in the CCA proceeding would enable greater focus on procurement issues of importance in this LTPP docket and assist in ensuring the issuance of a Track I decision by the end of the year, as contemplated in the proposed schedule.

### **C. Clarification and Refinement of Existing Procurement Rules through the Development of a Procurement Rulebook**

The Preliminary Scoping Memo states that “A staff proposal for a Procurement Rulebook was considered in R.10-05-006, but not adopted. The concept of a Procurement Rulebook was first proposed in the 2006 LTPP proceeding to provide a comprehensive source of procurement rules and requirements. This proceeding will consider the adoption of a Procurement Rulebook.”<sup>11</sup>

WPTF reiterates herein two observations we have made previously with regard to the Rule Book concept. First, this effort could be a drain on Commission and party resources going forward, as it is difficult to envision in advance every procurement-related issue that may arise. As new issues arise, the Rule Book will then need to be revised to accommodate these new

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<sup>10</sup> See P.U. Code Section 380, and the addition of Section subsection (b)(4) addressing CAM.

<sup>11</sup> OIR, at p. 9 (footnote omitted).

developments, which will be a further drain on time and expenses. Second, a Rule Book doesn't have the force of a decision. While a proposed Rule Book may be a compilation of laws and rules from previous Commission decisions, it will not have the same force and effect of a decision. It therefore makes little sense to go through this effort merely to develop a guidebook that has no legal effect.

Furthermore, the potential exists for conflict between the Rule Book and the underlying Commission actions and decisions that are cited therein. Presumably the decisions themselves prevail in the event of any conflict, but WPTF questions why we should go through this effort just to create the potential for future disputes and conflicts. The Commission will retain greater flexibility and avoid unnecessary future dispute resolution efforts if it simply maintains its current policy of reviewing the IOUs' procurement plans on a regularly scheduled basis and dealing with new procurement-related policy and/or administrative issues as they arise.

#### **D. CAISO Corporation Market-Related Procurement Implementation Issues**

WPTF is aware of no particular MRTU-related issues that need to be considered in this rulemaking and will therefore reserve any comments for later filings.

#### **E. GHG Procurement Policy**

The OIR states in Section 5.3 that there is a "potential that the LTPP proceeding, as the umbrella proceeding, may attract "forum-shopping" proposals from parties that have had their ideas rejected, or have yet to be considered, in other proceedings."<sup>12</sup> WPTF notes there is particular potential for this to occur with regard to GHG procurement issues. As noted in Table 1, the Emissions Performance Standard and Greenhouse Gas issues are being considered in R.06-

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<sup>12</sup> Id, at pp. 10-11.



04-009 and R.11-03-012. The Commission should be vigilant about guarding against overlap in these areas and strongly discourage such forum shopping.

## **F. Other Procurement Rule Changes**

### **1. Refinements to the Independent Evaluator Process**

WPTF believes that refinements to Independent Evaluator (“IE”) guidelines is an area for which procurement rule changes should be considered in this proceeding. The current proposed decision under consideration in R.10-05-006 provides that “A number of parties support the proposal to have the Commission’s Energy Division, rather than the utilities, oversee the hiring and oversight of IEs.”<sup>13</sup> It goes on to state “We agree that it would be preferable for IEs to be hired by and report to the Commission, rather than the utilities, and to the extent the barriers to doing so can be overcome in the future, we will consider this proposal again.”<sup>14</sup>

WPTF suggests there is “no time like the present” for considering this issue. It should be determined to be within scope and finally resolved rather than continually being punted to the next, unspecified proceeding.

### **2. Coordination of RA and LTPP Procurement Frameworks.**

WPTF recommends that the Commission ensure that the interplay of resource adequacy (“RA”) obligations with LTPP and coordination with the CAISO are fully addressed in a secondary phase of the proceeding.

Put simply, there is a potential conflict between procurements that occur in LTPP and the role that RA is intended to have in supporting resource investment. The RA program imposes system and local capacity obligations on all load-serving entities (“LSEs”) – obligations that are

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<sup>13</sup> Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement, at p. 63.

<sup>14</sup> Id, at p. 64.

predicated on objective reliability criteria – and then the program relies on markets to ensure that LSEs procure sufficient local and system resources to meet their capacity obligations. In contrast, through the LTPP, the IOUs base their procurement proposals upon different and often ill-defined additional criteria for resources to satisfy the RA obligations, which are then procured through non-transparent solicitations.

If administratively-determined long-term procurement authorizations exceed levels required to satisfy reliability obligations, the resultant over-supply undermines RA pricing. The absence of appropriate price signals for RA capacity leads to potentially inefficient trade-offs between new and existing capacity and, in a vicious cycle, places further reliance on the LTPP for the development of new resources. The Commission should investigate mechanisms to ensure that LTPP procurement does not undermine the ability of the emerging RA markets to support and provide incentives for investments in new and existing resources.

Furthermore, it is highly important that the Commission and the CAISO cooperate on these issues. Whatever actions that the Commission takes in this proceeding have to be closely coordinated with CAISO so that market participants do not end up with two different systems that address basically the same issues. By coordinating their approaches, sharing information and working cooperatively, the Commission and CAISO can best serve the interests of the ratepayers who must pay the bills.

## **II. IOU Section 454.5 Bundled Plans**

The OIR provides that “This proceeding will consider individual IOU procurement plans pursuant to § 454.5. Each IOU shall file proposed updates to its individual bundled plan consistent with guidance to be provided in the Scoping Memo and any related rulings or

decisions.”<sup>15</sup> Any decisions with regard to the Proposed Standardized Planning Assumptions, Renewable Integration Model results and other procurement-related issues, as discussed above, will inform the IOUs’ development of their respective Bundled Procurement Plans that will be filed in early 2013. WPTF strongly urges the Commission to adopt a schedule that will permit the full consideration of these topics so that the IOU procurement plans are informed by the resolution of these issues.

### **III. Schedule and Need for Hearings**

WPTF supports the schedule contained in the OIR. We note, however, that there is a clear need to move ahead quickly so that these issues can be resolved before moving to the consideration of the IOUs’ Bundled Procurement Plans. This means that time will be of the essence and all parties and staff should be prepared to commit the necessary resources to ensure that a decision is issued by the end of this year, as contemplated in the proposed schedule.

The OIR states that “evidentiary hearings may be necessary during at least Track II of the proceeding. However, as with earlier procurement proceedings, many issues may lend themselves to resolution through a combination of workshops and formal comments without hearing.”<sup>16</sup> WPTF concurs that hearings may be necessary in Track II and hopes that the Track I procurement issues may be resolved more informally, as contemplated by the Preliminary Scoping Memo. We also concur with the preliminary determination that this proceeding be categorized as ratesetting, as defined in Rule 1.3(e).

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<sup>15</sup> OIR, at p. 10.

<sup>16</sup> Id, at p. 13.

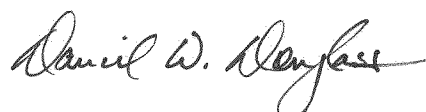
#### IV. Conclusion

WPTF agrees with the broad classification of issues described in the OIR and particularly recommends that the Commission ensure that key issues, such as the interplay of RA obligations with LTPP issues be carefully coordinated with the CAISO. The proposed adoption of new rules for forward procurement of flexible resources to support grid reliability is an area where such cooperation will be particularly critical.

With regard to other issues, WPTF suggests that the Commission determine quickly how the CAM provisions of SB 695 will be applied going forward and may wish to consider addressing this topic in Rulemaking 12-02-009. Further, the Commission should abandon consideration of the proposed Rule Book process, as it is highly likely to be both a drain on Commission and party resources, as well as a source of future disputes and conflicts with regard to possible differences between its provisions and subsequent (or past) Commission decisions.

WPTF also suggests that two additional issues should be considered to be within scope. First, the Commission should consider and adopt a methodology whereby IEs would be hired by and report to the Commission, rather than the utilities. Second, the Commission should ensure that the interplay of RA obligations with LTPP and coordination with the CAISO are fully addressed in a secondary phase of the proceeding. WPTF thanks the Commission for its attention to these comments and looks forward to active participation in this proceeding.

Respectfully submitted,



Daniel W. Douglass  
DOUGLASS & LIDDELL

Attorneys for  
**WESTERN POWER TRADING FORUM**

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