

Docket No.: R.12-03-014

Exhibit No.: _____

Witness: Sean Beatty

Date: June 25, 2012

**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 12-03-014
(Filed March 22, 2012)

**LOCAL RELIABILITY TRACK I
DIRECT TESTIMONY OF SEAN BEATTY
ON BEHALF OF GENON ENERGY, INC.**

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Attorneys for GenOn Energy, Inc.

June 25, 2012

1 **I. INTRODUCTION.**

2 **Q. What is your name, employer and title?**

3 A. My name is Sean Beatty, and I am Director, West Regulatory Affairs and Associate
4 General Counsel of GenOn Energy, Inc. ("GenOn").

5 **Q. Please describe your professional and educational background.**

6 A. In my current role, I oversee GenOn's regulatory affairs in California, with a particular
7 focus on energy policy issues before the California Public Utilities Commission. I started
8 in that position with GenOn's predecessor, Mirant Corporation, in August 2008.

9 From 1995 until joining Mirant in August 2008, I was an associate and partner at the San
10 Francisco law firm, Cooper, White & Cooper LLP. In those positions, I spent a
11 significant portion of my time representing telecommunications companies in front of the
12 California Public Utilities Commission

13 I have a bachelor's degree in Philosophy from the University of California, Berkeley and
14 a juris doctorate from the University of California, Hastings College of the Law.

15 **Q. Please describe GenOn's operations in California.**

16 A. Through its subsidiaries, GenOn owns and operates seven natural gas-fired electric
17 generating facilities in California with total capacity of approximately 5,400 megawatts,
18 broken down as follows:

1	<u>Generating Station</u>	<u>MWs</u>
2	Contra Costa	674
3	Coolwater	636
4	Ellwood	54
5	Etiwanda	640
6	Mandalay	560
7	Ormond Beach	1,516
8	Pittsburg	1,311

9 The Contra Costa and Pittsburg Generating Stations are located in the Greater Bay Area
10 local capacity area. Ellwood, Mandalay and Ormond Beach Generating Stations are
11 located in the Big Creek-Ventura local capacity area. Etiwanda is located in the Los
12 Angeles Basin local capacity area. Contra Costa, Pittsburg, Mandalay and Ormond
13 Beach Generating Stations rely on once-through cooling (OTC).

14 In addition, GenOn Marsh Landing is in the process of constructing the Marsh
15 Landing Generating Station, a 760 MW natural gas-fired peaking facility located at a site
16 adjacent to the site of the Contra Costa Generating Station, which is within the Greater
17 Bay Area local capacity area. The Marsh Landing Generating Station is scheduled to
18 commence operations in 2013.

1 **Q. Please summarize the topics you will address in your testimony.**

2 A. In this Track I testimony, I address the status of GenOn's implementation plans with
3 respect to the State Water Resources Control Board's (SWRCB's) compliance deadline
4 under its OTC regulations.

5 **II. STATUS OF GENON'S OTC IMPLEMENTATION PLANS.**

6 **Q. Did GenOn submit implementation plans to the SWRCB as required by Section 3 of**
7 **the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine**
8 **Waters for Power Plant Cooling (OTC Policy)?**

9 A. Yes. On April 1, 2011, GenOn submitted to the SWRCB implementation plans for
10 Contra Costa Generating Station (CCGS), Mandalay Generating Station (MGS), Ormond
11 Beach Generating Station (OBGS) and Pittsburg Generating Station (PGS).

12 **Q. Please describe the implementation plan for CCGS.**

13 A. Pursuant to D.10-07-045, CCGS is expected to retire when Marsh Landing Generating
14 Station becomes operational in 2013.

15 **Q. Please describe the implementation plan for PGS.**

16 A. In the PGS implementation plan, GenOn identified Track 1 as the compliance path. To
17 accomplish Track 1 compliance, GenOn would retire PGS Unit 7, which relies on a
18 closed-cycle cooling system, and convert that cooling system to Units 5 and 6, the units

1 relying on OTC. Such a conversion would eliminate reliance on OTC at PGS while
2 preserving approximately 629 megawatts of capacity at PGS. The PGS conversion will
3 only take place if GenOn has a certain revenue stream to cover the cost of the conversion.
4 No mechanism to provide such a revenue stream currently exists for PGS. Absent that
5 revenue stream, PGS would be forced to retire.

6 **Q. Please describe the implementation plans for MGS and OBGS.**

7 A. In the MGS and OBGS implementation plans, GenOn originally identified Track 2 as the
8 compliance path. Track 2 compliance under the SWRCB's OTC Policy requires a
9 determination that Track 1 compliance is infeasible. Assuming that condition is satisfied,
10 Track 2 compliance can be accomplished by reducing impingement mortality and
11 entrainment of marine life to a comparable level to that which would be achieved under
12 Track 1 through operational or structural controls, or both.

13 **Q. Has there been a change in the implementation plans for MGS and OBGS?**

14 A. Yes. GenOn recently had a letter exchange with the SWRCB informing the SWRCB of
15 GenOn's intention to modify the implementation plans for MGS and OBGS. Instead of
16 pursuing Track 2 compliance, GenOn will now pursue a retire and replace approach to
17 compliance. Under this approach, the existing capacity at MGS and OBGS would cease
18 to operate on or around the compliance deadline specified by the OTC Policy. The MGS
19 and OBGS retire and replace approach is contingent upon GenOn receiving long-term
20 contracts covering the construction and operation of the new facilities at those sites.

1 Copies of the letters exchanged between GenOn and the SWRCB are attached to my
2 testimony as Exhibit 1.

3 **Q. Please describe the basis for deciding to change the MGS and OBGS**
4 **implementation plans.**

5 A. The most important factor was the uncertainty surrounding Track 2 compliance. In
6 addition to requiring a determination that Track 1 compliance is infeasible, GenOn would
7 have to conduct three years of baseline studies merely to be in a position to test whether
8 operational or structural controls would achieve the required reductions. Under these
9 circumstances, compliance with the OTC Policy could not be verified until near the
10 deadline.

11 **Q. Does this conclude your testimony?**

12 A. Yes, it does.

Exhibit 1

(See attached pages)



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May 14, 2012

Mr. Jonathan Bishop
State Water Resources Control Board
Division of Water Quality
1001 I Street, 15th Floor
Sacramento, CA 95814

Re: GenOn West, LP Ormond Beach Generating Station & Mandalay Generating Station
Implementation Plans for the Statewide Water Quality Control Policy on the Use of
Coastal and Estuarine Waters for Power Plant Cooling (Policy)

Dear Mr. Bishop,

GenOn West, LP (GenOn) submits this letter to provide the State Water Resources Control Board (Board) an update regarding the Implementation Plans for its Ormond Beach Generating Station (OBGS) and Mandalay Generating Station (MGS).

In the OBGS and MGS Implementation Plans submitted on April 1, 2011, GenOn demonstrated that it would be infeasible to retrofit the existing units to use closed-cycle cooling and thereby comply under Track 1 of the Board's Policy. Accordingly, GenOn proposed to comply with the Policy by achieving the impact reductions required under Track 2 of the Policy by implementing a combination of technological and operational controls. However, the ultimate viability of Track 2 implementation at both OBGS and MGS is subject to numerous technical, environmental, political and economic uncertainties. Also, there is a significant risk that the contemplated Track 2 compliance measures could either not be implemented or would fail to achieve the requisite reductions, in which case the units would be forced to shut down. Furthermore, since Track 2 requires a three-year baseline monitoring study, GenOn would not be able to better gauge the viability of Track 2 implementation measures and handicap that risk for at least three more years.

Additionally, the California Independent System Operator (CAISO) recently determined that, of the existing OTC megawatts in the Big Creek/Ventura Local Reliability Area, in which MGS and OBGS are located, 430 megawatts are required to meet local reliability needs beyond 2020. To ensure that need can be met, and in light of the Track 2 uncertainties highlighted above, GenOn intends to amend its Implementation Plans for OBGS and MGS to propose to replace the once-through cooled units at OBGS and MGS with new units that are not dependent on once-through cooling. The replacements of the once-through cooled units at OBGS and MGS are subject to their own uncertainties, e.g., a need determination by the California Public Utilities Commission and the awarding of a power purchase agreement from the utility, and obtaining licenses from the California Energy Commission and air permits from the Ventura County Air Pollution Control District, but the replacement compliance path more completely furthers the Board's objective to minimize the impacts of once-through cooling and will result in generating units more capable of meeting the CAISO's need for flexible capacity to integrate renewable resources coming on-line in

Mr. Jonathan Bishop
May 14, 2012
Page 2 of 2

the next decade. Due to the lengthy procurement, permitting and construction cycle facing new generation development in California, Genon is revising its Implementation Plans now to ensure that we can complete the replacement path by 2020.

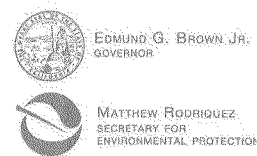
GenOn will follow up on this letter with a formal revision of the Implementation Plans describing the proposed replacement units in more detail. In the interim, we would appreciate the Board's acknowledgement of this letter and its endorsement for GenOn to proceed in the direction outlined herein.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Chillemi".

John Chillemi
President

cc: Michael Lauffer, SWRCB



State Water Resources Control Board

May 18, 2012

John Chillemi
GenOn West, LP
P.O. Box 192
Pittsburg, CA 94565

Dear Mr. Chillemi:

GENON WEST, LP ORMOND BEACH GENERATING STATION AND MANDALAY GENERATING STATION IMPLEMENTATION PLANS FOR THE STATEWIDE WATER QUALITY CONTROL POLICY ON THE USE OF COASTAL AND ESTUARINE WATERS FOR POWER PLANT COOLING (OTC POLICY)

Thank you for your letter of May 14, 2012, informing the State Water Resources Control Board (State Water Board) of GenOn West, LP's (GenOn's) intention to amend its OTC Policy implementation plans for the Ormond Beach Generating Station (OBGS) and Mandalay Generating Station (MGS). According to your May 14 letter, GenOn intends to rely on a replacement strategy that will eliminate the use of once-through cooling water intakes at the OBGS and MGS facilities.

By April 1, 2011, the OTC Policy required owners or operators of existing power plants to submit implementation plans identifying how they intended to comply with the policy. The OTC Policy provides two compliance tracks. The preferred track, Track 1, requires an intake flow rate reduction commensurate with or greater than that which can be attained through closed-cycle wet cooling. If an owner or operator of an existing plant demonstrates to the satisfaction of the State Water Board that compliance with Track 1 is not feasible, then it may pursue Track 2. Track 2 requires a reduction in impingement mortality and entrainment to a level comparable with Track 1. Track 2 requires extensive study, as well as operational or structural controls, and involves greater uncertainty because modeled impingement and entrainment reductions, and therefore compliance, cannot be verified until near the end of the implementation timeline. In contrast, retrofitting to a new cooling technology under Track 1 provides certainty.

Subject to receiving additional details regarding the replacement strategy, the State Water Board staff supports GenOn's intended amendment of its implementation plans for OBGS and MGS. GenOn's proposed replacement of the once-through cooled units at the two facilities is consistent with the OTC Policy. Further, the elimination of once-through cooled units, which is what the amended implementation plans would achieve, is the preferred approach to achieving the intent of the OTC Policy. The replacement of the once-through cooled units better protects the beneficial uses of the State's coastal and estuarine waters. Finally, staff shares GenOn's

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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concerns regarding the uncertainty of the Track 2 compliance measures described in GenOn's original implementation plans. The amendment proposed in GenOn's May 14 letter will avoid waiting three years as study data are gathered to determine the compliance path that GenOn will follow.

We look forward to receiving GenOn's amended implementation plans.

Sincerely,



Jonathan Bishop
Chief Deputy

cc: Peter Landreth
GenOn West, LP
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Pittsburg, CA 94565