

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)

**THE DIVISION OF RATEPAYER ADVOCATES'
RESPONSE TO THE MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR TO STRIKE PORTIONS OF REPLY TESTIMONY**

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I. INTRODUCTION

Pursuant to Pursuant to Rule 11.1(e) of the California Public Utility Commission’s (Commission’s) Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) replies to the August 3, 2012 “*Motion of the California Independent System Operator [CAISO] to Strike Portions of Reply Testimony*” (CAISO Motion to Strike). CAISO’s Motion to Strike claims that portions of DRA witness’ Robert Fagan’s testimony, served on July 23, 2012 “does not actually ‘reply’ to anyone else but the ISO and [] introduces a new analysis for a smaller subarea.”¹ As explained below, Mr. Fagan’s reply testimony responds directly to issues raised in the testimony of Southern California Edison (SCE) and AES Southland (AES) submitted on July 23, 2012, and provides information that is relevant to one of the key issues in this proceeding: should the Commission rely solely on the CAISO’s forecasts for determining local capacity requirements or should those forecasts be adjusted to account for other factors and policies.

The Commission should deny CAISO’s Motion to Strike. DRA does not oppose CAISO’s request for surrebuttal, but if the Commission grants such a request, the DRA requests the opportunity to cross examine the surrebuttal’s author.

II. DISCUSSION

On May 23, 2012, the CAISO submitted Robert Sparks’ testimony which estimated SCE’s LCR need in the range of 2370 MW to 3741 MW in the LA Basin, inclusive of the Western LA Basin sub-area (for the Trajectory case; different ranges apply for the other RPS portfolio cases).² In reply testimony dated June 25, 2012, Mr. Fagan stated that Mr. Sparks’ testimony overstated the need. Mr. Fagan’s June 25 testimony also noted that the CAISO had not included certain key input assumption information in testimony or in the 2011/12 CAISO Transmission Plan about LCR need at the sub-area level. In particular, this deficiency included

¹ CAISO Motion to Strike, pp. 2-3.

² Testimony of Robert Fagan on behalf of DRA, June 25, 2012, Table 1.

the loads and resources for the Western LA Basin, and the fact that CAISO's Local Resource Analysis screening tool did not support sub-area granularity. He stated his intent to provide additional analysis of local needs for the critical sub-areas:

“Q.21 Does the CAISO Local Resource Analysis screening tool²⁰ include sub-area granularity?

A.21. No, the tool represents the overall LA Basin LCR area, and the overall BC/Ventura LCR area, but it does not include sub-area[s] (western LA Basin in the LA Basin LCR area, Moorpark in the BC/Ventura LCR area).”³

and

“In particular, I plan to carefully consider the current status of LA Basin contracted supply, and review the anticipated SCE 6/25/2012 filing in this regard. Also, additional detail on the sub-area loads and resources not contained in the CAISO transmission plan or filed testimony is needed to complete a sub-area review using a load and resource balance approach. I plan to address these issues in reply testimony.”⁴

The portion of Mr. Fagan's reply testimony that CAISO moves to strike responds directly to SCE's and AES's claimed LCR need for the Western LA basin.

The CAISO Motion to Strike claims that Mr. Fagan's reply testimony improperly responds to its opening testimony. Mr. Fagan's testimony on LCR need in critical sub-areas responds to claims in the testimony of SCE and AES that the CAISO's LCR need for the Western LA basin is reasonable. While it is true that the reply testimony provides additional analysis related to CAISO's claimed LCR need in the Western LA basin, that fact does not render it improper.

In fact, ALJ Gamson recognized as much at the pre hearing conference:

the purpose of reply testimony is to take what other parties have said in their testimony and to respond to it. It is not generally to put forth new information. I mean that was what you were supposed to have done in your testimony. There may be ways of getting from here to there. You know, to take something which

³ Testimony of Robert Fagan on behalf of DRA, June 25, 2012, 22:1-5.

⁴ Testimony of Robert Fagan on behalf of DRA, June 25, 2012, 22:7-12.

was said by another party and say, well, you know, upon further reflection here's some more thoughts.⁵

That is precisely what Mr. Fagan did: review the testimony of SCE and AES and respond to their claims of LCR need in the Western LA basin with information refuting those claims.

III. CONCLUSION

The Commission should deny CAISO's Motion to Strike because Mr. Fagan's reply testimony is consistent with the scope of rebuttal testimony stated at the prehearing conference and directly replies to issues raised in SCE's and AES's testimony. DRA does not oppose CAISO's request for surrebuttal, but if the Commission grants CAISO's request, then DRA requests the opportunity to cross examine the surrebuttal's author.

Respectfully submitted,

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⁵ Rulemaking (R.) 12-03-014 Transcript of Prehearing Conference, 165:23-27