

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)

**REPLY BRIEF OF THE
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES
IN LOCAL RELIABILITY TRACK 1**

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SUMMARY OF RECOMMENDATIONS

In its Opening Brief, as required by Rule 13.11 of the Commission’s Rules of Practice and Procedure, the Center for Energy Efficiency and Renewable Technologies (CEERT) provided its Summary of Recommendations for the Local Reliability Track 1 of the Long Term Procurement Plan (LTPP) Rulemaking (R.) 12-03-014. Based on its review of the Opening Briefs of other parties, CEERT believes that its recommendations are supported both by the evidentiary record and applicable policy and precedent as well as the positions taken by a wide and diverse group of stakeholders in those briefs.

For these reasons, CEERT again urges the Commission to issue a decision in Track 1 that does all of the following:

1. The Commission should re-confirm that its Energy Action Plan “Loading Order” applies to *all* jurisdictional utility procurement, including any undertaken to meet a long-term, forecasted “local capacity requirement” (LCR).
2. The Commission should not authorize *any* LCR procurement by any utility, including Southern California Edison Company (SCE), unless and until the Commission has issued a decision that includes orders that: (1) define terms such as “flexible” capacity or attributes and “operating characteristics” as applied to LCR resources, including distinctions, if any, in the use or meaning of these terms between meeting annual Resource Adequacy (RA) requirements versus a multi-year Long Term Procurement Plan (LTPP) LCR need, (2) identify the “eligibility” criteria and performance metrics for “non-traditional” (i.e., not gas-fired), preferred resources wishing to participate in meeting any identified LCR need; (3) confirm that, in a utility LCR procurement, each resource procured is not required to have *all* of the flexible attributes or operating characteristics potentially identified with LCR resources, but, instead, that the overall procurement portfolio, inclusive of preferred resources, can meet this need; and (4) ensure coordination and consistency on these determinations between all tracks of this LTPP Rulemaking (R.) 12-03-014, R.11-10-023 (RA), and A.11-05-023 (San Diego Gas & Electric Company (SDG&E)).

3. With respect to the LCR “need” identified and recommended by the California Independent System Operator (CAISO) for the Los Angeles (LA) Basin and Big Creek/Ventura areas, the Commission should find that the CAISO’s studies did not sufficiently consider Loading Order preferred resources, whether as mitigation measures (i.e., uncommitted energy efficiency on the demand side, transmission solutions, and quasi-transmission solutions, such as synchronous condensers) or as non-traditional supply resources (i.e., Demand Response (DR) and storage devices).
4. The Commission should find and direct additional assessments of the economics and viability of preferred resources to reduce or meet an LCR need and of transmission solutions to mitigate the LCR need in the LA Basin and Big Creek/Ventura before authorizing SCE to conduct an LCR procurement.
5. The Commission should not grant SCE discretion, based on a “range” of LCR need, as to when, how, or how much of that need SCE will procure.
6. However, in recognition of at least some time constraints in moving forward to anticipate OTC retirements and deal with uncertainty surrounding the future of the San Onofre Nuclear Generating Station (SONGS), the Commission could adopt a finding of *some* LCR need for SCE in this proceeding, *with the caveat that no procurement will be authorized until the tasks identified in Recommendations 2. and 4., above, are first completed by this Commission.*
7. The Commission should not adopt an LCR need requirement for SCE greater than the “low estimate” identified by CAISO in its Environmentally Constrained Case of approximately 1,800 MW of replacement once-through-cooling (OTC) generation for the LA Basin.
8. The Commission should further find that any identified LCR need is for capacity in relatively rare contingency events, and the procurement of gas resources designed to produce large amounts of energy on a continuous basis would crowd out emerging preferred resources. Therefore, procurement in this LTPP cycle should be heavily weighted against combined cycle additions.
9. The Commission should find that no requirement exists today to identify a need or authorize an LCR procurement for the Big Creek/Ventura area, and any such need assessment can be deferred to the 2014 LTPP.

10. The Commission should find that no need has been demonstrated for “system flexibility” over and above any identified LCR need. In turn, the Commission should not adopt the “residual system need” of 1,200 MWs separately identified by the CAISO and should defer any further consideration of this issue to the 2014 LTPP.
11. The Commission should direct that *any* LCR study conducted by *any* party for the 2014 LTPP must fully consider all preferred resources including uncommitted energy efficiency and the then current and forecasted capabilities of demand response in any identified local area as well as on a system wide basis.
12. The Commission should not conflate purported need for “flexibility” and/or energy production that is yet to be determined in Track 2 of this proceeding with LCR need, if any, determined in this Track 1.
13. Only after the Commission has made the determinations identified in Recommendations 2. and 4. above and has directed any needed revisions to an RFO to procure such resources conforming to the Loading Order, pursuant to its current inquiry defined in the ALJ’s Ruling issued on September 14, 2012, should the Commission consider authorizing an all source LCR procurement for SCE for the LA Basin.

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The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits this Reply Brief in the Local Reliability Track 1 of the Commission’s Long Term Procurement Plan (LTPP) Rulemaking (R.) 12-03-014. This Reply Brief is timely filed and served pursuant to the Commission’s Rules of Practice and Procedure (Rule 13.11) and the Administrative Law Judge’s (ALJ’s) Ruling setting the briefing schedule.¹

**I.
COMMON BRIEFING OUTLINE SECTIONS II, IV, AND V:
IDENTIFYING AND MEETING LCR NEED.**

In its Opening Brief, CEERT specifically followed the “common briefing outline” submitted by Southern California Edison Company (SCE), as revised, on August 27, 2012. However, there is no escaping that many of the issues identified by discrete topic headings in that common briefing outline overlap with each other and have been combined in the ultimate recommendations made by the parties. To better illustrate widely shared positions on these issues as a whole, especially to underscore recommendations that build from and integrate different aspects of these topic areas, CEERT addresses the Sections identified above collectively in this Reply Brief.

Further, based on its review of the Opening Briefs of other parties, CEERT believes that its recommendations are supported both by the evidentiary record and applicable policy and

¹ Reporter’s Transcript (RT) at 1384 (ALJ Gamson).

precedent and by the positions taken by a wide and diverse group of stakeholders in those briefs. CEERT, therefore, renews its request that its recommendations, restated again in the Summary of Recommendations to this Reply Brief, be adopted by the Commission in its Track 1 decision.

A. THE MAJORITY OF THE OPENING BRIEFS MAKE CLEAR THAT A ROBUST RECORD EXISTS FOR THE COMMISSION TO RESOLVE TRACK 1 LCR ISSUES IN A MANNER THAT WILL PRESERVE, ADVANCE, AND COMPLY WITH COMMISSION AND STATE ENERGY POLICIES AND RESOURCE PROCUREMENT MANDATES.

1. Overview and Procedural Considerations

The evidentiary record and now the Opening Briefs in Track 1 demonstrate that the Commission is faced with a unique challenge in this LTPP Local Reliability Track 1 – (1) to address a first-of-its-kind, *long term* forecast by the California Independent System Operator (CAISO) of local capacity requirements (LCR) for two local capacity areas (LCAs) in Southern California Edison Company’s (SCE’s) service territory *and* (2) to determine whether, based on the CAISO’s studies, such an LCR need exists over the ten-year period at issue and, if so, the timing and manner in which procurement to meet that need will take place. While the LCAs of only one jurisdictional utility (Southern California Edison Company (SCE)) were expressly at issue in Track 1, the Commission’s decisions on these issues in this LTPP rulemaking will have far-reaching impacts on all investor-owned utilities (IOUs) and, more importantly, energy policy and procurement for years to come.

The significance of these issues has been highlighted not only through nearly two weeks of evidentiary hearings with multiple witnesses, but now the filing of 24 Opening Briefs by parties representing diverse public and private interests.² Although the Commission has sought to explore certain procurement issues further in a Workshop and Comment process initiated after

² While 24 Opening Briefs were filed, one was filed jointly by three parties (Alliance for Retail Energy Markets, Direct Access Customer Coalition, and Marin Energy Authority (AReM/DACC/MEA)).

the close of hearings here, CEERT believes that a robust evidentiary record and legal briefs have been developed and submitted in Track 1 on which the Commission can rely to reach a reasoned decision on *all of the issues* addressed in Track 1 (i.e., LCR need, procurement, and next steps) without reference to a post-record, informal Workshop process.

Specifically, in September, the Commission first held a Workshop³ and then issued an ALJ's Ruling (September 14 ALJ's Ruling)⁴ seeking comments and reply comments in response to "Workshop Topics" identified by that ruling that "may be used to inform either Track 1 or Track 2 (or both Tracks)."⁵ With reference to that directive, it is CEERT's position that, to the extent that any issue addressed during the Track 1 evidentiary hearings and resulting briefs overlap with one of these "Workshop Topics," the Commission must base its Track 1 decision in the first instance on the Track 1 evidentiary record and legal briefs.⁶ As CEERT stated in its Comments in response to the September 14 ALJ's Ruling:

"Th[e] [Track 1] record is not only robust enough to support a reasoned Track 1 decision, but it is also unfair and confusing to permit an after-the-fact, informal workshop and related comments, none of which were subjected to the rigors of the hearing room (i.e., cross-examination and evidentiary rules), to have precedence over or displace that evidentiary record. Such an outcome would certainly seem to raise due process concerns."⁷

Thus, while the Workshop and responsive comments could serve to clarify party positions taken on issues addressed in Track 1 or any next-step process that might be identified in the Track 1 decision, they should not be relied upon in that decision beyond that point.⁸

³ This Workshop was held jointly in R.12-03-014 (LTPP) and R.10-02-007 (Energy Storage) on September 7, 2012.

⁴ This ALJ's Ruling was issued on September 14, 2012 (September 14 ALJ's Ruling) seeking comments on identified Workshop Topics.

⁵ September 14 ALJ's Ruling, at p. 1.

⁶ In fact, of the six sets of "topics" identified by the September 14 ALJ's Ruling nearly all reference specifically or relate to "LCR" procurement. (September 14 ALJ's Ruling, at pp. 1-3.)

⁷ R.12-03-014 (LTPP) CEERT Comments on Workshop Topics Identified in ALJ's Ruling of September 14, 2012 (filed on October 9, 2012) (CEERT October 9 Comments), at p. 2.

⁸ CEERT notes that at the close of the Workshop held on September 7, 2012, assigned Commissioner Florio stated his opinion that there was a division in the issues to be addressed between the Track 1 evidentiary record and the

CEERT offers this perspective not just to protect all parties' due process rights, but also to further the integrity of the Commission's process. To continue to encourage robust participation by multiple and varied stakeholders, especially in costly, time-consuming evidentiary hearings, the Commission should not take actions that diminish or de-value that participation.

In addition, many thoughtful recommendations have been developed and provided by a diverse group of stakeholders on which the Commission can determine any needed next steps, definitions, analysis, or assessments in Track 1 before authorizing an LCR procurement. To that end, CEERT again encourages the Commission to review and adopt CEERT's recommendations identified in its Opening Brief and repeated here in its Track 1 decision.⁹

2. Most Parties, Including CEERT, Agree that the CAISO's LCR and OTC Studies Did Not Adequately Consider Preferred Resources or Transmission or Other Mitigation Measures to Reduce LCR Need and Presupposed or Applied Attributes to Limit Eligible LCR Resources to Gas-Fired Generation Only.

Notably, more than two-thirds (2/3) of the Opening Briefs, including CEERT's brief, that addressed the LCR need issues (as opposed to the Cost Adjustment Mechanism (CAM) or CAM procurement only) raised significant questions regarding the CAISO studies, and related assumptions, used to support its LCR need assessments for the Los Angeles (LA) Basin and Big Creek/Ventura areas at issue in Track 1.¹⁰ These Opening Briefs filed by parties representing a

Workshop, with the first addressing the question of the amount of LCR "need" and the second considering how any identified need can or should be procured. CEERT strongly disagrees with this characterization of the two venues and this division of issues. As the testimony, record, and briefs in Track 1 make clear, *all LCR issues – both as to amount and procurement* – were noticed and contested in Track 1 and must be resolved with reference to that record in a Track 1 decision.

⁹ See, pp. iii-v, *supra*; CEERT Opening Brief, at pp. 4-6.

¹⁰ The Opening Briefs of AReM/DACC/MEA and South Joaquin Irrigation District (SJID) largely focused on the CAM or CAM procurement. Of the remaining 22 Opening Briefs, the following 16 parties, including CEERT, all submitted briefs challenging the CAISO's need assessment, especially the lack or inadequate consideration of Loading Order preferred resources: Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), California Large Energy Consumers Association (CLECA), Natural Resources Defense Council (NRDC), California Environmental Justice Alliance (CEJA), Sierra Club California (Sierra Club), Vote Solar Initiative (VSI), Women's Energy Matters (WEM), EnerNOC, Inc. (EnerNOC), Community Environmental Council (Council), Calpine Corporation (Calpine), California Cogeneration Council (CCC), Cogeneration Association of California (CAC), and California Energy Storage Alliance (CESA).

broad and diverse group of stakeholders – from ratepayer advocates to environmentalists to companies and associations involved in the energy industry – share the following concerns regarding CAISO and utility recommendations on the extent of that LCR need and how and when it should be met. Among other things, CEERT and these parties agree that:

First, and foremost, the CAISO studies and its LCR need and procurement recommendations, especially over the ten-year forecast period, as to assumptions made, must, but did *not* follow at all or did not adequately consider preferred resources in this Commission’s *mandated* Loading Order for utility energy procurement (LCR or otherwise) – namely, energy efficiency, demand response, renewable generation or distributed generation, or combined heat and power.¹¹

Second, transmission and other mitigation options, such as “reactive support” or “synchronous condensers,” that would reduce the LCR need, especially over the ten-year forecast period at issue here, were *not*, but must be, adequately considered before or in authorizing any LCR procurement.¹²

Third, CAISO and SCE approaches to meet an LCR need, to the extent one is identified, inappropriately either *presume or presuppose* that LCR need being met by gas-fired generation, impose attributes or characteristics on LCR-eligible “resources” to yield only gas-fired generation, or seek to leave procurement to a vague, discretionary process.¹³

Fourth, despite sufficient time, even in the face of once-through-cooling (OTC) generation retirements expected over the next ten years, CAISO and the IOUs inappropriately seek broad and immediate LCR procurement authorization even before this Commission and stakeholders have either fully explored and publicly vetted transmission and demand-reduction

¹¹ See, e.g., CCC Opening Brief, at pp. 4-10; CEJA Opening Brief, at pp. 4, 14-23; CLECA Opening Brief, at pp. 20-22; Council Opening Brief, at pp. 2-4; DRA Opening Brief, at p. 11; 16-18, 27-30, 32-; EnerNOC Opening Brief, at pp. 4-14, 16-20; NRDC Opening Brief, at pp. 3-10; Sierra Club Opening Brief, at pp. 2-7; 13-16; TURN Opening Brief, at pp. 6-10; VSI Opening Brief, at pp. 3-5. See also, CEERT Opening Brief, at pp. 7, 9-17, 19-21.

¹² Calpine Opening Brief, at pp. 4-11; CEJA Opening Brief, at pp. 27-31; CLECA Opening Brief, at pp. 4-7; DRA Opening Brief, at pp. 23-25; Sierra Club Opening Brief, at pp. 16-19; TURN Opening Brief, at p. 11. See also, CEERT Opening Brief, at pp. 24-30

¹³ Calpine Opening Brief, at pp. 9-12; CLECA Opening Brief, at pp. 2-7; DRA Opening Brief, at pp. 31-32 (also noting that granting “SCE the wide range of procurement authority it seeks...would not promote market stability”); EnerNOC Opening Brief, at pp. 21-22, 24-29; Sierra Club Opening Brief, at pp. 10-11; WEM Opening Brief, at pp. 33-34.

resource solutions that are likely to reduce the forecasted LCR need or have considered the economics and attributes of preferred resources to meet any such need.¹⁴

In these circumstances, what is not acceptable is for the Commission to rubber stamp CAISO modeling “primary modeling runs,” which are “highly sensitive to the input assumptions,” that *excluded* or assumed “zero” uncommitted energy efficiency or demand response (preferred resources highest in the Commission’s Loading Order) showing up in those local areas.¹⁵ In this regard, the Natural Resources Defense Council (NRDC) in its Opening Brief noted that the CAISO had “excluded uncommitted efficiency from its forecast due to the uncertainty over the quantity of uncommitted efficiency.”¹⁶ Yet, as stated by NRDC, “there is uncertainty associated with virtually every factor used in a forecast,” including the “two largest factors” (population growth and economic growth) that “drive [CAISO’S] overall forecast,” and “[e]xcluding all uncommitted energy efficiency is unrealistic because it excludes energy efficiency policies that are already providing savings today.”¹⁷

In its brief, NRDC correctly and succinctly concludes: “Uncertainty in a variable does not make zero the best estimate.”¹⁸ From CEERT’s perspective, this conclusion is especially apt where the “zero” assumption involves a preferred resource. Further, it is similarly inappropriate to assume, as the CAISO did, “zero” demand response, the other resource highest on the Commission’s Loading Order, when current and expected changes in DR’s capabilities and

¹⁴ CCC Opening Brief, at pp. 11-12; 16-18; CEJA Opening Brief, at pp. 41-43; DRA, at pp. 19-23, 30-31; EnerNOC Opening Brief, at pp. 16-20; NRDC Opening Brief, at pp. 14-16; Sierra Club Opening Brief, at pp. 26-28; TURN Opening Brief, at p. 6; See also, CEERT Opening Brief, at pp. 22-24;

¹⁵ Ex. DRA-1, at p. 17 (DRA (Fagan)); Ex. CEJA-1, at pp. 7, 10 (CEJA (Powers)). See also, RT at 969 (SCE (Minick) re input assumption sensitivity).

¹⁶ NRDC Opening Brief, at p. 5.

¹⁷ NRDC Opening Brief, at pp. 4-6.

¹⁸ NRDC Opening Brief, at p. 5.

availability, including local dispatchability, time responsiveness, locations specific to LCAs, are well-matched to meet LCR needs.¹⁹

In addition, three ratepayer advocate organizations – Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), and the California Large Energy Consumers Association (CLECA) – have all demonstrated that the CAISO’s analysis, “limited by the assumptions it used [to the exclusion of loading order resources] and by the narrowly defined set of potential mitigation solutions it studied,” did not consider the cost consequences of its recommendations for ratepayers.²⁰ Both DRA and TURN warn that “the CAISO has taken the position that the only relevant concern is the risk of underprocurement,” focusing on reliability concerns that would arise only in rare circumstances, instead of considering that CAISO’s “overly conservative assumptions” could impose “significant costs of overprocurement” on ratepayers.²¹ While DRA “acknowledges that reliable operation of the grid is an important state policy,” DRA concludes that the CAISO “glosses over the consequences of authorizing conventional generation needed only in a worst case scenario that is unlikely to happen,” a “costly endeavor” that “can ‘crowd out’” and make “it more difficult for preferred resources to compete.”²²

The Commission’s focus in resolving LCR issues in this Track 1, therefore, must be on achieving the *right balance* between maintaining reliability in a manner that is the most cost-effective and fairly accounts for and incorporates preferred resources and appropriate mitigation

¹⁹ EnerNOC Opening Brief, at pp. 1-2, 8-14. See also, CLECA Opening Brief, at p. 20 (concluding that “CAISO prematurely concluded that preferred resources cannot provide LCR support,” and did so, in particular, by not appropriately taking into account “the capabilities of demand response programs already authorized by the Commission or the additional capabilities that could be added in California to DR programs to allow them to better meet LCR needs.”)

²⁰ CLECA Opening Brief, at pp. 3-4, 7; TURN Opening Brief, at p. 5.

²¹ TURN Opening Brief, at p. 5; see also, DRA Opening Brief, at pp. 18-19. TURN also states that the “CAISO ignores the potential costs to ratepayers and focuses instead on the extremely low risk of criteria violations” that could result from shortage “under extraordinarily stressed system conditions.” (TURN Opening Brief, at p. 6.)

²² DRA Opening Brief, at pp. 18-19.

measures to reduce or meet that need. As CLECA states: “In terms of this Commission’s duty to set ‘just and reasonable rates,’ the CAISO’s overly conservative position that LCR needs should be met solely through new gas-fired generation, regardless of cost is very troubling and should be carefully weighed in the balancing of costs and reliability.”²³

CEERT believes that the Commission has a strong record and good recommendations from multiple parties that will permit it to reach a much needed “balanced” and well-supported resolution of LCR issues, especially by addressing both need and procurement in stages or phases. Recommendations made by CEERT and other parties to that end are addressed further below.²⁴

3. Multiple Parties, Including CEERT, Have Urged a Timely, “Staged” or “Phased” Approach that Would Permit Further, Publicly Vetted Assessments of Mitigation and Preferred Resource Options Available to Reduce *and* Meet LCR Need *Before* Any LCR Procurement Is Authorized.

Some parties have concluded that the shortcomings of the CAISO studies are so significant, especially in terms of failing to account for preferred resources or mitigation options and relying on “worst case, unrealistic assumptions,” that the studies in fact “inflate the LCR need” and should not be adopted by the Commission.²⁵ Instead, these parties recommend that the Commission should find that there is no need in either the LA Basin or Big Creek/Ventura LCAs and should not authorize any procurement by SCE of new LCR resources.²⁶

CEERT agrees that authorizing LCR procurement for the Big Creek/Ventura area or for meeting a claimed “residual system need” is certainly not required or supported by the record at this time. For the Big Creek/Ventura LCA, the record has demonstrated that any LCR need “will

²³ CLECA Opening Brief, at p. 35.

²⁴ This recommended approach has been reiterated by CEERT in the CEERT October 9 Comments (Workshop Topics Identified in the ALJ’s Ruling of September 14, 2012) pp. 12-13.

²⁵ Sierra Club Opening Brief, at pp. 5-6, 19-26; see also, CEJA Opening Brief, at pp. 31-40.

²⁶ Sierra Club Opening Brief, at pp. 19-26; CEJA Opening Brief, at pp. 31-40.

be met by expected transmission solutions or can be deferred indefinitely.”²⁷ Further, an initial assertion by the CAISO that certain “simulation results” showed an *additional* “1,051 MW residual system shortage of upward load following resource” beyond the CAISO’s identified LCR need²⁸ was not supported by the record, is dependent “on the outcome of additional probabilistic renewable resource integration studies” that will not be completed until 2013, and should, as such, not be adopted here.²⁹

However, CEERT does concede that grid reliability must be maintained and OTC retirements, an environmental policy CEERT supports, “*could create some need for new generation*” in the LA Basin.³⁰ Yet, “it is certainly not true that conventional gas fired resources are the only technology capable of satisfying this need” or that such a need should be determined without full consideration of demand-side, preferred resources or transmission solutions that could reduce or mitigate that need.³¹

For these reasons, CEERT focused its ultimate recommendations, stated in its Opening Brief and again here, on identifying steps or stages that need to be, and can be, accomplished in a timely manner *before* the Commission authorizes any LCR procurement. To begin with, because of shortcomings in CAISO’s “Trajectory Scenario,” which did not adequately consider preferred resources, but on which CAISO has relied for its recommendations, CEERT has urged that the upper limit of any LCR need requirement for the LA Basin should not exceed the “low estimate” identified by CAISO in its Environmentally Constrained Case.³² Alternatively, CEERT agrees with other parties who have urged that only the CAISO’s “Sensitivity Analysis,” which was “the

²⁷ CEERT Opening Brief, at pp. 30-31.

²⁸ Ex. ISO-04, at pp. 3-4 (CAISO (Rothleder)).

²⁹ CEERT Opening Brief, at p. 19.

³⁰ CEERT Opening Brief, at p. 2; emphasis added and original.

³¹ Ex. CEERT-01, at p. II-2 (CEERT (Caldwell))

³² CEERT Opening Brief, at pp. v, 5.

only scenario in which any future energy efficiency” or other preferred resources, like Combined Heat and Power (CHP) and Distributed Generation (DG), were included, should be “the starting point for considering need.”³³ CEERT notes, however, that even this “Sensitivity Analysis” fell short by not including any Demand Response (DR).³⁴

In these circumstances, it remains CEERT’s position, therefore, that, *before any* LCR procurement is authorized, especially given the many concerns remaining with respect to *all* of the CAISO’s studies, the Commission must take a staged approach that resolves or addresses specific “priority tasks” first. Such an approach is necessary to ensure that all transmission and “non-generation” options (i.e., Loading Order preferred resources) available to mitigate or reduce LCR need, have been fully and appropriately evaluated and reflected in a revised or updated OTC/LCR study. To that end, as recommended in CEERT’s Opening Brief, the Commission should first direct additional assessments of both the economics and viability of preferred resources to reduce or meet an LCR need and transmission solutions to mitigate the LCR need in the LA Basin, in particular. At the same time, the Commission should work with the CAISO, utilities, and all stakeholders to define LCR resource “attributes,” “operating characteristics,” or eligibility criteria before any utility issues an LCR Request for Offer (RFO).³⁵

CEERT’s recommended list of such “priority tasks” and the manner in which they should be undertaken were reiterated in its Comments filed on October 9, 2012, on the Workshop Topics identified in the September 14 ALJ’s Ruling, as follows:³⁶

³³ NRDC Opening Brief, at p. 3; VSI Opening Brief, at pp. 3-5; CCC Opening Brief, at pp. 6, 9-10..

³⁴ DRA Opening Brief, at p. 7.

³⁵ CEERT Opening Brief, at pp. iv, 4.

³⁶ Again, CEERT’s Comments on the Workshop Topics do not supersede its testimony or briefs here; rather, CEERT offers this information to confirm and clarify (as needed) its recommendations in Track 1.

“The priority tasks are to complete and publically present the studies for the non-dispatchable generation alternatives like location specific rooftop PV and other embedded behind the meter Distributed Generation, targeted location specific energy efficiency, and transmission and quasi-transmission solutions. The ‘studies’ must include not just a good estimate of potential supply, cost, and timing, but also hard targets, milestones, performance metrics, funding sources and program design required to achieve those targets. At the conclusion of this Phase, the CAISO should rerun its LCR need analysis and recalculate a new LCR need given these now ‘firm’ results for these preferred non-generation resources.

“While this effort is taking place, SCE, the CAISO and the Commission must work together to design the ‘generation’ procurement RFO. Critical to this task will be to establish the performance metrics and operational protocols to allow locationally specific, dispatchable DR and energy storage to bid into this RFO on an equal footing with conventional generation.

“Once *both* of these initial tasks have been completed, the Commission can then comfortably authorize actual procurement of a definite quantity in definite locations of dispatchable resources to fill the remaining LCR need in an all source RFO. Of course, individual contracts with successful bidders, as well as a determination that the RFO itself met the requirements of the Loading Order, would also be subject to Commission approval.”³⁷

This emphasis on using a “sequential,” “staged,” or “phased” approach to authorizing LCR procurement has also been voiced by many other parties – including DRA, CLECA, TURN, CCC, Calpine, NRDC, and EnerNOC - especially to ensure that a reasonable “balance” between reliability, cost, and resource preferences is achieved.³⁸ Further, this approach was explored by ALJ Gamson during the evidentiary hearings when he questioned CAISO witness Sparks about the possible “leeway” available to the Commission to authorize only “some percentage” of the CAISO’s recommended need “at the end of this year,” while “wait[ing] a year, two years, five years, ... to require the rest of it in order to see if some of those other [preferred] resources come about.”³⁹

³⁷ CEERT October 9 Comments (Workshop Topics Identified in ALJ’s Ruling of September 14, 2012), at pp. 12-13; emphasis original.

³⁸ CLECA Opening Brief, at pp. 2, 27.

³⁹ RT at 272-273 (ALJ Gamson); see also, CEERT Opening Brief, at p. 17.

To that end, like CEERT, CLECA, DRA, and Calpine have all pointed out the need for further analysis of non-generation, transmission alternatives for meeting the LCR requirements as a precondition to a final procurement authorization, especially to ensure that such procurement is “just and reasonable.”⁴⁰ From Calpine’s perspective, a “cautious approach” to new procurement in the LA Basin requires first performing “additional analysis ... to identify and evaluate transmission alternatives before the procurement of significant amounts of new OTC replacement generation is authorized.”⁴¹

According to Calpine, however, if “some Track 1 procurement is authorized prior to the Commission identifying system requirements and flexibility needs, it should be the smallest amount necessary to ensure reliability while further analysis is undertaken.”⁴² This view is similarly voiced by DRA, asking the Commission to authorize SCE to procure “no more than” 169 MW for 2021 and 278 MW for 2022 for the West LA Basin.⁴³ Further, with reference to CEERT’s testimony in support, DRA asks that the Commission “not authorize additional LCR in the amount recommended by CAISO and supported by SCE without ensuring that cost-effective transmission and distribution upgrades have been thoroughly explored and implemented.”⁴⁴

With respect to accounting for preferred resources, several parties have made similar recommendations aimed at appropriately limiting the amount of LCR need authorized for procurement unless and until those resources have been adequately considered in reducing that need. Thus, TURN recommends that the Commission should only authorize procurement “sufficient to satisfy 2/3 of the [LCR] amounts sought by the CAISO *after ... adjustments to the CAISO analysis,*” which include “assuming [that] no less than 50% of the long-term target or

⁴⁰ CLECA Opening Brief, at p. 5; see also, DRA Opening Brief, at p. ; Calpine Opening Brief, at p. 6.

⁴¹ Calpine Opening Brief, at p. 6.

⁴² Calpine Opening Brief, at pp. 6, 9.

⁴³ DRA Opening Brief, at p. 26.

⁴⁴ *Id.*, at p. 25.

program goal of each [preferred] resource is achieved.”⁴⁵ NRDC recommends that, in order to comply with the Loading Order, if procurement is not deferred altogether to the 2014 LTPP, “the Commission should include, at minimum, the amount of uncommitted energy efficiency savings from the 2010 LTPP proceeding before making a need determination or authorizing any procurement.”⁴⁶ Similarly, EnerNOC urges that, to the extent an LCR need is identified by the Commission for the LA Basin, it should be “reduced by a MW quantity reflective of expected growth of preferred resources within the LCA.”⁴⁷ Finally, CCC, noting that, because “preferred resources have advantages over conventional generation that are difficult to value in an all-source RFO,” existing mechanisms for procuring preferred resources should be used to meet any identified LCR need, but with modifications, “as needed to focus preferred resource procurement in the locations and at the times where they are needed to meet LCR needs.”⁴⁸

As its Opening Brief reflects, CEERT agrees with these parties that, while OTC retirements should and can remain on schedule, there is time, and certainly a strong policy and cost motivation, to develop a clearer picture of the impact on LCR need of available mitigation measures and appropriate reliance on preferred resources.⁴⁹ What the Commission should be endeavoring to achieve is a process and record that identifies and authorizes procurement “that will meet the need for local reliability at an *appropriate level*,”⁵⁰ with reliance on Loading Order preferred resources, as discussed here and the following section.

⁴⁵ TURN Opening Brief, at p. 1; emphasis added. See also, DRA Opening Brief, at p. 28 (asking that, “[i]f the Commission authorizes a greater amount of LCR procurement” than DRA recommends, “then stakeholders should be allowed to comment on SCE’s economic studies evaluating preferred resources before SCE submits its proposed PPA applications to the Commission.”)

⁴⁶ NRDC Opening Brief, at p. 2.

⁴⁷ EnerNOC Opening Brief, at pp. iv, 3.

⁴⁸ CCC Opening Brief, at pp. 2, 13.

⁴⁹ CEERT Opening Brief, at pp. 13-14, 22-24; CLECA Opening Brief, at pp. 24-25;

⁵⁰ CLECA Opening Brief, at p. 7; emphasis added.

B. THE JURISDICTIONAL UTILITIES' INDIFFERENCE TO THE COMMISSION'S LOADING ORDER AND OTHER STATE ENERGY POLICIES SHOULD BE A MATTER OF GREAT CONCERN FOR, AND NEEDED REDRESS BY, THE COMMISSION.

In its Opening Brief, supported by its testimony and the evidentiary record in Track 1, CEERT fully addressed positions taken by the CAISO and the utilities (SCE, PG&E, and SDG&E) in this proceeding in developing and offering CEERT's recommendations.⁵¹ Because the CAISO and utility Opening Briefs largely repeat positions taken in their respective testimony, CEERT, to avoid duplication, incorporates its argument and recommendations in response to these positions in its Opening Brief herein.

However, what does deserve *additional* attention is the manner in which the utilities have continued in their briefs to be discouragingly dismissive of preferred resources in the Commission's Loading Order. On this point, CEERT, to begin with, does understand the CAISO's focus on "reliability" to the exclusion of other policy considerations, consistent with the CAISO's self-described position "as the transmission network operator" and its need "to respond very quickly to contingencies that threaten grid reliability."⁵²

CEERT also welcomes CAISO's encouraging statements in its Opening Brief that confirm that the CAISO is "technology neutral as to the resources procured in the local areas" and its commitment to "work with SCE and the Commission to develop the requirements needed for resources to compete in the procurement process."⁵³ CEERT would only respond, however, that such work should include *all stakeholders* in a public process and that any final LCR need, consistent with CEERT's recommendations, be based on further assessments and revision

⁵¹ See, CEERT Opening Brief, *passim*; Summary of Recommendations and Executive Summary, at pp. iv-vi; 4-6.

⁵² CAISO Opening Brief, at p. 3.

⁵³ *Id.*

consistent with this State’s energy policies *before* any final procurement is authorized.⁵⁴ Thus, “while grid reliability must be maintained,” identifying and meeting any LCR need also must be accomplished “in a manner that does not impede or compromise California’s ‘efforts to overhaul the State’s electricity infrastructure to reduce dependence on volatile fossil fuels, significantly reduce emissions of greenhouse gases and criteria pollutants in our most sensitive urban areas, and achieve other environmental goals.’”⁵⁵

Yet, while the CAISO may have understandably taken a very conservative approach to identifying an LCR need consistent with its focus on reliability, *different* mandates and policy considerations apply to the IOUs’ *procurement* of generating resources that could result in steel-in-the-ground commitments of 20 years or more that would *not* further this State’s energy policies, including GHG emission reduction goals, and could “crowd out” preferred resources or demand reduction favored by the State in meeting any energy need. Thus, this Commission has made clear that the IOUs subject to its jurisdiction, are *required*, especially with respect to *long term plans and planning, to procure resources* to meet *any* need in a “specific order” of preference,⁵⁶ a point made by numerous parties in their Opening Briefs.⁵⁷

In fact, in the *specific context* of past and present LTPPs, the Commission has *repeatedly* maintained its commitment to the Energy Action Plan “Loading Order” since its adoption in 2003 and made clear that this “Loading Order” is not just a discretionary consideration for utilities, but is a *compliance mandate*, requiring each utility to “invest first in energy efficiency and demand-side resources, followed by renewable resources, and *only then* in clean

⁵⁴ CEERT Opening Brief, at pp. 4-6.

⁵⁵ CEERT Opening Brief, at p. 2, citing Ex. CEERT-01, at p. II-3 (CEERT (Caldwell)).

⁵⁶ Decision (D.) 12-01-033, at pp. 17, 20.

⁵⁷ CEJA Opening Brief, at p. 4; DRA Opening Brief, at p. 16; EnerNOC Opening Brief, at pp. 5, 17; NRDC Opening Brief, at p. 14; Sierra Club Opening Brief, at pp. 13-14; Vote Solar Opening Brief, at p. 4.

conventional electricity supply.”⁵⁸ Relative to this Track 1, as CEERT stated in its Opening Brief, the need for meeting this Loading Order directive, “is particularly acute in an urban area like the LA Basin, in which generation resources must not only comply with statewide greenhouse gas (GHG) emission reductions, but also strict air quality regulations promulgated in response to this area’s classification as severe, non-attainment for criteria pollutants emitted by gas-fired generation.”⁵⁹

Distressingly, as CEJA’s Opening Brief recounts, the utilities “have historically failed to comply with the loading order.”⁶⁰ This “trend” appears on course to be continued in this LCR Track 1 *if* the Commission does not take strong enforcement action to refute and counter the dismissive approach taken by the utilities to the Loading Order in their testimony and briefs here.

The Opening Brief of Pacific Gas and Electric Company (PG&E), in particular, contains a litany of statements aimed at discrediting preferred resources. Specifically, PG&E asks that “studies” by parties other than the CAISO that “assume...more contributions from sources such as uncommitted energy efficiency, demand response, combined heat and power, and distributed generation, should be *rejected*” along with any steps to ensure their inclusion in meeting the LCR need.⁶¹ PG&E rests this request on the claim that “proper planning in the face of uncertainty” basically leaves no room for inclusion or consideration of preferred resources.⁶² PG&E, instead, embraces the “conservative approach” taken by the CAISO, asserting, again, that any forecasts of local energy efficiency (EE), demand response, or even CHP “availability” are “fairly

⁵⁸ Decision (D.) 12-01-033, at p. 17, citing Energy Action Plan 2008 Update, at 1; emphasis added.

⁵⁹ CEERT Opening Brief, at p.2.

⁶⁰ CEJA Opening Brief, at p. 4.

⁶¹ PG&E Opening Brief, at p. 1; emphasis added.

⁶² *Id.*, at pp. 1, 3

uncertain” and are really only represent “aspirations,” which have not been “fulfill[ed]” and “may not actually occur,” by those who advocate for reliance on preferred resources.⁶³

Such withering criticisms of “preferred resources” make PG&E’s claim that it “is committed to meeting its future energy needs in accordance with the preferred loading order” particularly hollow.⁶⁴ These are also strange and disturbing statements coming from a utility that has claimed to be at the vanguard of promoting energy efficiency, both as funded by ratepayers and as incentivized for its shareholders.

As to PG&E resting its dismissal of “preferred resources” being able to reduce or meet LCR needs on “uncertainty,” these claims have been fully refuted by numerous parties and certainly do not mean that further “economic assessments” of the ability of loading resources to meet LCR needs, as proposed even by SCE, should not be undertaken first before they are summarily dumped from consideration here. As reviewed above, NRDC, among others, has pointed out the absurdity of assuming *zero* for uncommitted energy efficiency or demand response based on “uncertainty” when so many other factors on which the CAISO relied were equally “uncertain.”⁶⁵ Further, even SCE witness Minick confirmed that demand reduction preferred resources could lower LCR requirements, and “[l]et’s be honest,” “[w]e’re going to have more energy efficiency...more demand response...and less fossil generation.”⁶⁶

Unfortunately, like PG&E, San Diego Gas and Electric Company (SDG&E) similarly asks the Commission to adopt the CAISO’s studies and recommendations, with any consideration of “preferred resources” reducing or meeting that need being accounted for, at most, as proposed by SCE, on a flexible and discretionary basis in reliance on internal utility

⁶³ *Id.*, at pp. 4-5.

⁶⁴ PG&E Opening Brief, at p. 6.

⁶⁵ NRDC Opening Brief, at p. 5.

⁶⁶ RT at 969, 986 (SCE (Minick)).

assessments.⁶⁷ Remarkably, SDG&E seeks to diminish parties' legitimate concerns and recommendations aimed at preserving the Loading Order in reducing or meeting an LCR need as "baiting," with adverse consequences for reliability and procurement if even considered by the Commission.⁶⁸ In fact, SDG&E goes further to create a hierarchy for procurement that simply has not been adopted by the Commission. Namely, SDG&E states: "While reliance on preferred resources such as energy efficiency ('EE') and demand response ('DR') is consistent with environmental policy goals, the need to protect reliability is of paramount importance," and "only those resources that have a high degree of certainty should be considered for purposes of resource planning."⁶⁹

These are *not* statements consistent with the Commission's *mandated order for procurement of resources* and the weak claim of "uncertainty" has not been substantiated as a reason not to account for these resources in identifying or meeting an LCR need. "[R]eliance on preferred resources" is not merely a discretionary action "consistent with environmental policy goals" or a simple matter of "policy support," as claimed by SDG&E,⁷⁰ but instead is the primary *mandate* for utility resource procurement by the Commission. Yet, like PG&E, SDG&E spends pages of its brief dismissing and discrediting the very real and expected capabilities of preferred resources that, again, its ratepayers have spent years funding and the utilities have profited in offering.⁷¹

With the torching of the Loading Order by PG&E and SDG&E, CEERT admits that SCE's more reasoned approach to at least consider the role of preferred resources in reducing or

⁶⁷ SDG&E Opening Brief, at pp. 3-4.

⁶⁸ SDG&E Opening Brief, at p. 5.

⁶⁹ SDG&E Opening Brief, at p. 7.

⁷⁰ SDG&E Opening Brief, at pp. 7, 9.

⁷¹ SDG&E Opening Brief, at pp. 6-11.

meeting any identified LCR needs is something of a welcomed relief. CEERT clearly shares SCE's goal to "not rush out and build lots of power plants under PPAs."⁷²

In its Opening Brief, however, SCE continues to ask that it be given "flexibility" or discretion in meeting any LCR need, adjusted, if at all, based on internal studies of the "cost-effectiveness of preferred resources that could potentially reduce LCR need," with compliance with the Loading Order determined as a matter of after-the-fact review of an application to be filed by SCE seeking approval of signed PPAs.⁷³ Along with other parties, CEERT has fully addressed and objected to this request in its Opening Brief, as follows:

"It is SCE's position that this 'uncertainty' and changing conditions are best addressed by the Commission giving SCE the 'flexibility' as to when and how it will procure resources to meet a LCR need, including 'defer[ring] procurement where appropriate' or 'due to changed circumstances or if other cost-effective options become available.' [Citation Ex. SCE-1, at p. 2 (SCE (Cushnie)).] CEERT does *not* agree. It is for the *Commission* to identify and authorize procurement to meet an LCR need consistent with *its LTPP procurement and State energy and environmental policies...*, and not delegate such decisions to a utility's discretion, especially to ensure that ratepayers are not paying for excessive procurement, especially from polluting gas-fired resources."⁷⁴

Instead, CEERT renews its call, stated in its testimony, Opening Brief, and again here, for the Commission, *before* any procurement authorization is granted to SCE, to *first* complete needed assessments of likely transmission mitigation measures and define "the 'flexible' attributes or 'operational' characteristics that will determine resource eligibility to meet that LCR need, including consideration of the capabilities of preferred resources now and through the next LTPP cycle to meet this need individually or on a portfolio basis."⁷⁵ Only by taking such steps will the Commission ensure that "reliability," costs, and resource procurement policies and

⁷² SCE Opening Brief, at pp. 2-3.

⁷³ SCE Opening Brief, at pp. 3-4.

⁷⁴ CEERT Opening Brief, at pp. 16-17.

⁷⁵ CEERT Opening Brief, at p. 17.

preferences have, in fact, been appropriately considered *in balance* and a reasonable result achieved.

The Commission should also take this opportunity, *again*, to remind *and* direct the jurisdictional utilities that the Loading Order is a real, tangible *mandate* that is to be followed by the utilities *without exception*. It is clearly time for “enforcement” of this mandate to take the place of utility “adherence” to the Loading Order on an elective or optional basis. As DRA advises in its Opening Brief, “[m]ere assurances that the loading order will be followed do not necessarily result in a viable process for doing so,”⁷⁶ and, from CEERT’s perspective, clearly do not assure compliance.

II. CONCLUSION

As CEERT has emphasized in its testimony and Opening Brief, the Commission is faced with a critical decision in this Track 1 that has the potential to shape energy infrastructure and procurement decisions through the end of the decade. The Commission has a robust record on which to base a reasoned Track 1 decision consistent with this Commission’s Loading Order and State energy policies.

CEERT believes that its recommendations, coupled with other similar requests by other parties, will allow the Commission to identify and complete necessary steps in a public and transparent way before identifying a final LCR need for the LA Basin and authorizing LCR procurement for SCE based on that need. There is time to complete this “staged” approach in an manner that is least cost and will both meet the timetable for OTC retirements, as well as

⁷⁶ DRA Opening Brief, at p. 28.

preserve State energy policies, including reducing Global Warming, improving air quality, and increasing reliance on the Loading Order's preferred resources to meet all energy needs.

Respectfully submitted,

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