

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 UTILITY REFORM NETWORK

Matthew Freedman
Staff Attorney



The Utility Reform Network
115 Sansome Street, Suite 900
San Francisco, CA 94104
Phone: 415-929-8876 x304
Fax: 415-929-1132
E-mail: matthew@turn.org

October 12, 2012

REPLY BRIEF OF THE UTILITY REFORM NETWORK

Pursuant to Rule 13.11 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN) hereby submits this reply brief on Track 1 issues. TURN only addresses specific issues raised in opening briefs by the California Independent System Operator (CAISO), Southern California Edison (SCE), San Diego Gas and Electric (SDG&E), the Independent Energy Producers (IEP), and the Alliance for Retail Energy Markets/Direct Access Customer Coalition/Marin Energy Authority (AREM/DACC/MEA). On all other issues, TURN relies upon the showings and arguments contained in the opening brief. TURN retains the common briefing outline format (and thereby skips certain headings).

II. DETERMINATION OF LOCAL CAPACITY REQUIREMENTS (LCR) NEED IN CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO) STUDIES

A. CAISO’s LCR And Once-Through Cooling (OTC) Generation Studies

The CAISO expresses concerns that its OTC forecast assumes the continued operation of the San Onofre Nuclear Generating Station (SONGS). The CAISO states that this “very optimistic assumption” should mitigate fears that the overall need forecast is too conservative.¹ As pointed out in TURN’s opening brief, the evolving status of the San Onofre Nuclear Generating Station could require major changes to any forecasts of the quantity and location of new generation to meet LCR needs. As of today, there is no reliable restart date for SONGS Unit 2 or 3 and it is possible that both units will never return to operation. If, as suggested by CAISO witness Sparks, the loss of SONGS would force the CAISO to consider “major transmission upgrades” to compensate for the absence of that generating capacity, the Commission should consider how such upgrades could alter the LCR needs in the LA Basin.² TURN therefore recommends

¹ CAISO opening brief, pages 15, 22.

² RT Vol. 1, page 93.

that the updated CAISO modeling results (due for release in December of 2012) be considered prior to authorizing the remaining amount of identified LCR procurement need.

B. Consideration Of Preferred Resources, Including Uncommitted Energy Efficiency, Demand Response, Combined Heat and Power, and Distributed Generation, In Determining Future LCR Needs

In opening briefs, the CAISO, SDG&E and PG&E all endorse the CAISO proposal to assume no contributions towards LCR needs from uncommitted Energy Efficiency, Distributed Generation, Demand Response or Combined Heat and Power resources. The CAISO points to testimony of its own witness as the basis for arguing that it would be unreasonable to incorporate any preferred resource goals established by the state or this Commission.³ In fact, the testimony of CAISO witness Millar merely highlights the fact that the CAISO selectively defers to certain resource assumptions made by the CEC and CPUC but appears to arbitrarily reject others without providing any clear justification for its judgements.

SDG&E asserts that the Commission should only rely on EE and DR savings for LCR purposes that “are reasonably expected to occur”.⁴ SDG&E further asserts that it is appropriate to adopt lower local area forecasts for EE and DR than are assumed for the entire system.⁵ TURN does not disagree that forecasts should be based on reasonable expectations regarding cost-effective, reliable and feasible preferred resources in a particular local area. For this reason, TURN has endorsed assuming that 50% of these uncommitted resource targets are included in the LCR planning assumptions.

The CAISO points out that local reliability areas “contain approximately half of the total

³ CAISO opening brief, pages 25-28.

⁴ SDG&E opening brief, page 10.

⁵ SDG&E opening brief, page 8.

load of the ISO controlled grid” and “tend to be urban areas of high population density”.⁶ These facts suggest that TURN’s proposal is sound. In order to accept the CAISO position (0% of uncommitted resources in LCR areas), the Commission would be forced to assume that 100% of uncommitted preferred resource additions will occur in only 50% of the CAISO grid (the portions outside of defined local reliability areas). This assumption would ignore the possibility, for example, that dense urban areas in load pockets are natural targets for new Energy Efficiency initiatives. Moreover, it does not represent a reasonable forecast of the distribution of uncommitted preferred resources throughout the CAISO area.

TURN offers a reasonable balance by proposing that the Commission assume that 50% of uncommitted DR and EE is developed in the relevant local reliability areas. This assumption recognizes the uncertainties related to successful achievement of the overall targets and the specific location of such resources. The Commission should adopt this approach as a compromise between competing positions taken in this proceeding.

III. DETERMINATION OF LCR NEED SPECIFIC TO LA BASIN AND BIG CREEK/VENTURA AREA

In its opening brief, the CAISO takes issue with TURN witness Woodruff’s concerns regarding the application of a more stringent reliability analysis for the Ellis and Moorpark subareas.⁷ The CAISO asserts that this more conservative approach was clearly identified and communicated to the Commission in previous years and cites the 2011 and 2012 LCR studies to support this claim.⁸ A review of these cites reveals the opposite of the CAISO’s claim. In fact, the 2011 and 2012 LCR studies refer only to LCR

⁶ CAISO opening brief, page 7.

⁷ CAISO opening brief, pages 10-12.

⁸ CAISO opening brief, page 12.

needs based on Category B and C criterion.⁹ It is therefore not credible to claim that the CAISO clearly communicated the use of a more stringent reliability standard to the Commission. TURN remains concerned with the CAISO's failure to clearly communicate the contingencies that form the basis for its conclusions regarding new resource need. TURN further remains skeptical that this more stringent analysis is justified.

V. INCORPORATION OF FLEXIBLE CAPACITY ATTRIBUTES IN LCR PROCUREMENT

TURN does not believe that it is important to explicitly incorporate flexible capacity attributes into the upcoming LCR procurement process since flexibility is desirable but difficult to value. Some parties seek to require flexible attributes for any new resources procured to meet LCR needs.¹⁰ The CAISO asserts that any resources procured to meet LCR needs "must include ramp rates and minimum output levels that allow the generation to be ramped-up quickly following the first transmission contingency in order to ensure reliable system operation following the next transmission contingency."¹¹

The CAISO fails to acknowledge the fact that these flexibility attributes are not included in the current LCR methodology. As explained by TURN witness Woodruff (in un rebutted testimony):

the Commission does not now require local capacity that meets LCR needs to be flexible. Thus inflexible capacity such as nuclear units, many Qualifying Facility

⁹ See Ex. CAISO-15, page 8 ("As set forth on the Summary Table of Inputs and Methodology, this LCR Report is based on NERC Performance Level B and Performance Level C criterion.") See Ex. CAISO-16, page 8 ("As set forth on the Summary Table of Inputs and Methodology, this LCR Report is based on NERC Performance Level B and Performance Level C criterion.") The specific pages referenced in the CAISO brief (Ex. CAISO-15, page 78 and Ex. CAISO-16, page 88) makes no explicit reference to any Performance Level D criteria.

¹⁰ For example, see SCE opening brief (pages 19-21) and IEP opening brief (pages 10-11).

¹¹ CAISO opening brief, page 48.

resources, and other renewable generation all count equally with flexible capacity in meeting LCR procurement targets. The CAISO's interpretation of this aspect of the NERC requirements thus seems to be new and different in this case and, if applied to annual LCR procurement, could cause a significant change in that program.¹²

TURN urges the Commission not to limit LCR eligibility to flexible, dispatchable resources. Inflexible resources can, and are, used to meet local needs under the current CAISO LCR methodology. Limiting eligibility with this new parameter would further constrain the types of resources that could fulfill LCR needs. Requiring the flexibility sought by the CAISO would effectively narrow the options to either gas-fired combustion turbines or combined-cycle plants.

Furthermore, the CAISO argues in favor of restricting LCR eligibility to flexible resources by citing the testimony of Mr. Rothleder in which he describes a study which has never been analyzed by the CPUC and appears to be based on the same assumptions that were embedded into the "high load scenario" (or "4600 scenario") that was presented (and not adopted) in R.10-05-006.¹³ By contrast, the other four scenarios studied in that proceeding showed no need for additional capacity for renewable integration purposes.

TURN cross-examined Mr. Rothleder about the reasonableness of relying on the "4600 scenario" despite the fact that the adopted Track 1 settlement in R.10-05-006 explicitly disavowed reliance on the high load scenario for purposes of any procurement authorization.¹⁴ Although the CAISO was a signatory to the settlement, the agency has

¹² Ex. TURN-1, page 13.

¹³ CAISO opening brief, page 49.

¹⁴ D.12-04-046, page 8 ("The resource planning analyses presented in this proceeding do not conclusively demonstrate whether or not there is need to add capacity for renewable integration purposes through the year 2020, the period to be addressed during the current LTPP cycle. The Settling Parties have differing
Continued on the next page

deviated from that agreement by repeatedly relying upon this one scenario for purposes of seeking new procurement authorizations.¹⁵ Mr. Rothleder conceded that the model used to produce the 4600 scenario is being updated and that there is general agreement that further analysis is needed before any results can be used to make any need determinations.¹⁶

As indicated in the opening brief, TURN believes that flexibility is generally useful but urges the Commission not to limit LCR eligibility to such resources or place explicit values on such facilities. The new combined cycle plants and combustion turbines likely to bid into RFOs will possess tremendous flexibility so there is little chance that the failure to explicitly value this attribute will lead to substantial development of inflexible resources. Efforts to screen out competing, and less flexible, resources are premature and may lead to unnecessary bid inflation. To the extent that more flexible utilization and dispatch conditions for new resources can be secured, SCE should consider these as qualitative values that can be used to choose between comparable-priced alternatives.

VI. COST ALLOCATION MECHANISM (CAM)

AREM/DACC/MEA argue in the opening brief that the Commission must review whether the need for new LCR procurement is driven by the demand of bundled load or direct access customers. These parties assert that the analysis of proportional contribution to LCR needs should occur in this proceeding and that the burden lies with the IOUs to “demonstrate to the Commission that they have verified plans in place to

Continued from the previous page

views on the input assumptions used in, and conclusions to be drawn from the modeling. There is general agreement that further analysis is needed before any renewable integration resource need determination is made.”)

¹⁵ RT Vol. 2, pages 321-324. (Specially, the CAISO used the 4600 Scenario to press for additional contracts with Calpine’s Sutter facility and focused on the 4600 Scenario in communications with its Board.)

¹⁶ RT Vol. 2, page 323.

meet the long-term load and load growth of their bundled customers through procurement of a mix of existing and new resources.”¹⁷

This position, although reasonable on its face, ignores the obvious fact that the driver of new LCR procurement is the retirement of existing power plants caused by state environmental policies. The procurement need is not attributable to changes in bundled customer demand but rather to the loss of existing resources that are necessary to support grid reliability. Bundled customers are not the cause of the environmental regulations driving the retirement of OTC units in the LA Basin.

AREM/DACC/MEA further argue that “procurement to meet a local area reliability need that benefits only the customers in the local area does not meet this requirement.”¹⁸ In taking this position, these parties offer the bizarre premise that some local resources are presumptively not covered by §365.1(c)(2)(A). The Commission must reject the AREM/DACC/MEA approach because, as a threshold matter, these parties fail to offer any test or methodology that could be used to distinguish projects that provide exclusively local benefits. Despite offering a six-point “checklist” that purports to serve as easily-understood criteria for determining CAM eligibility, AREM/DACC/MEA fail to explain how the Commission would distinguish between projects that provide benefits “primarily to customers located within the Local RA area” and those that provide benefits “to all customers located in the entire IOU’s service area.”¹⁹ Instead, AREM/DACC/MEA simply point to the statutory provisions and assert that their meaning should be obvious.

Under cross-examination, AREM/DACC/MEA witness Mara agreed that her view of

¹⁷ AREM/DACC/MEA opening brief, page 10.

¹⁸ AREM/DACC/MEA opening brief, page 14.

¹⁹ AREM/DACC/MEA opening brief, page 20.

these statutory provisions means that an IOU would need to make an affirmative demonstration that every customer in the service territory benefits from each specific local capacity purchase.²⁰ Despite holding this view, Ms. Mara was unable to articulate any particular methodology or approach that should be adopted to determine whether all customers benefit from a particular purchase. Ms. Mara was given ample opportunity to outline specific criteria that could be applied to this determination and refused to offer any opinion. Moreover, Ms. Mara could not identify a single example of procurement that would fail this test, instead choosing to repeat the non-answer that “the statute speaks for itself.”²¹

As is obvious from reading the relevant portions of the hearing transcript, the AREM/DACC/MEA proposal is a slogan that lacks any implementable elements. Moreover, there is no basis for concluding that the CAM only applies to the procurement of resources that can provided demonstrated benefits to every single customer in the IOU service territory. The Commission does not now, and has not ever, allocated procurement costs to specific subsets of bundled customers within the same IOU based on their location within the same service territory. This is not the time to embark on radical geographical deaveraging of rates to accommodate the wishes of DA and CCA providers.

VII. OTHER ISSUES

A. SCE Capital Structure Proposal

SCE requests that the Commission provide advance authorization to file an application to adjust its authorized capital structure based on perceived debt equivalence impacts associated with “new or renewed” PPAs.²² SCE claims that the procurement authorized

²⁰ RT Vol. 7, page 1180.

²¹ RT Vol. 7, page 1180, 1182.

²² SCE opening brief, pages 29-31.

in this LTPP could cause “a significant adverse impact on SCE’s credit ratings” even though there is substantial uncertainty regarding the quantity of resources that will actually be procured.²³ The Commission should decline to offer any advance authorization of the type sought by SCE.

The Commission has addressed this issue in many previous procurement-related decisions (see D.07-02-011, D.07-12-049, D.07-12-052, D.08-05-035, D.09-06-018) and declined to approve the relief requested by the utility. Rather than seeking permission to modify a yet-to-be-issued decision on cost of capital, SCE should seek future relief on its own initiative if there is clear and convincing evidence that a credit downgrade is imminent. TURN is not convinced that SCE’s situation is so dire and remains concerned that the primary objective of a capital structure modification would be to increase returns for shareholders rather than protecting ratepayers from higher debt financing costs. Granting SCE’s request would only invite an application that seeks to enrich its shareholders regardless of whether the relief is necessary to preserve lower borrowing costs.

VIII. CONCLUSION

For the reasons outlined in the previous sections, the Commission should adopt TURN’s recommendations.

²³ SCE opening brief, page 30.

Respectfully submitted,

_____/S/_____
MATTHEW FREEDMAN
Attorney for

The Utility Reform Network
115 Sansome Street, Suite 900
San Francisco, CA 94104
Phone: 415-929-8876 x304
Fax: 415-929-1132
E-mail: matthew@turn.org

Dated: October 12, 2012