

**EXCERPTS FROM 6/13/2011
ADMINISTRATIVE LAW JUDGE'S
RULING ADDRESSING MOTION FOR
RECONSIDERATION, MOTION REGARDING
TRACK I SCHEDULE, AND RULES TRACK III ISSUES**



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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 10-05-006
(Filed May 6, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING ADDRESSING MOTION
FOR RECONSIDERATION, MOTION REGARDING TRACK I SCHEDULE,
AND RULES TRACK III ISSUES**

Summary

The Motion of Pacific Gas and Electric Company, Southern California Edison and San Diego Gas & Electric Company for Reconsideration of ALJ's Ruling is denied. The Motion of the Division of Ratepayer Advocates Regarding Track I (System Planning) Schedule and Request for Order Shortening Time to Respond is granted in part and denied in part. The testimony previously due on July 26, 2011 is now due on August 4, 2011. Additional detail regarding the process for addressing certain Rules Track III issues is provided.

Utilities' Motion for Reconsideration

Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE) and San Diego Gas & Electric Company (SDG&E) request reconsideration of the Administrative Law Judge's Ruling Granting Motion to Modify System Track I Schedule, issued May 31, 2011 (May 31 Ruling). The May 31 Ruling granted a motion by the three utilities and the California Independent System

Appendix B

Staff Proposal on Procurement Oversight Rules

Background

In D.07-12-052, the Commission encouraged the Energy Division to develop an “AB 57 Procurement Plan Implementation Manual” in collaboration with the IOUs and parties to the 2006 Long Term Procurement Plans (LTPP) proceeding.⁵ Development of the manual continued in Track III of the 2010 LTPP proceeding⁶, whereby a draft copy of the manual, referred to as the “Rulebook,” was circulated to parties. A workshop was held by Energy Division staff (Staff) on June 11, 2010 to further the development of the Rulebook. Parties submitted comments and reply comments on the Rulebook on June 21 and June 28, 2010, respectively.

In her June 2, 2010 Ruling in R.10-05-006, ALJ Kolakowski stated that the intent of the Rulebook is to develop a “clear compendium of current California Public Utilities Commission (CPUC) procurement requirements.” In comments filed on the Rulebook, the parties, with the exception of Southern California Edison, uniformly preferred the “compendium” characterization to mean that the Rulebook should serve as a non-enforceable, reference-only summary of existing Commission procurement rules derived from various decisions. The numerous arguments presented by parties in support of their non-enforceable, reference-only interpretation are varied and are already on record in their filed comments and replies, and so will not be repeated here. Energy Division staff, however, has consistently envisioned that the Rulebook should supersede existing decisions, in that the document would be treated as a General Order and will be fully enforceable. The Energy Division proposes that the Commission should adopt a Rulebook, or procurement manual, as a fully enforceable document.

⁵ R.06-02-013.

⁶ R.10-05-006.

Staff Proposal

Staff proposes that the attached procurement oversight rules, attached to this document as Attachment 1, should be adopted by the Commission in R.10-05-006 as a set of enforceable rules. These proposed rules spell out oversight responsibilities and authority by the Independent Evaluators (IEs), the Procurement Review Group (PRG), the Cost Allocation Mechanism (CAM) group, and the Energy Division. It also spells out Standards of Conduct (SOCs) applicable to the utilities and their employees in the course of their procurement activities. Most of the policy directives have been derived from past decisions and current practices. We have tried to clarify and elaborate on existing rules, with some minor changes that are designed to ensure that these oversight groups run smoothly and effectively.

The following is a brief summary of each of the four subsections in the proposed rules:

Section 1 deals with the selection and minimum qualifications of an IE, the oversight responsibilities of an IE.

Section 2 explains the rules related to participation, roles, and meeting protocols for the PRG.

Section 3 explains the rules related to participation, roles, and meeting protocols for the CAM Group.

Section 4 spells out the codes of conduct the IOUs and their staff are required to abide by in their procurement activities.

In places where the rules differ from prior Commission decisions due to operational and legal considerations, Staff proposes that the attached rules should prevail. At this time, Staff proposes to focus only on the Procurement Oversight and Advisory Requirement category in Track III of R.10-05-006. This is Section O in the original Rulebook.

Attachment 2, consisting of a separate matrix in Excel spreadsheet format, demonstrates the wording differences between the staff proposed rules and decision language, where applicable. As the matrix illustrates, most of

the differences between the language of the staff proposed rules and the decisions are minor. Only in a handful of cases do the staff-proposed rules consist of substantive changes from decision language. These substantive differences are summarized below:

1. New IE report filing requirement: For solicitations of products five years or greater in length, the IE report shall be filed with Energy Division and the PRG at least 7 calendar days before any IOU application is filed with the CPUC and the IE report should also be submitted as an attachment to the application.
2. New Reporting Requirement: In some circumstances, it may be necessary for an IE to produce two versions of an IE report: one public/redacted and another that is confidential. These two versions must be identical with the exception of redacting confidential information. There shall be no differences in the conclusions or non-confidential text.
3. New Procurement Review Group (PRG) protocol requirement: If an error is identified in PRG materials, a correction should be sent to the PRG members as soon as reasonably possible. PRG members may request a delay of the PRG meeting, if they believe that there is inadequate time to review the corrected materials.
4. New Procurement Review Group protocol requirement (underlined portion is new): The IOUs are to provide confidential meeting summaries to PRG members that include a list of attending PRG members (including the organizations represented), a summary of topics presented and discussed, and a list of information requested or offered to be supplied after the meeting, (and identify the requesting party). This meeting summary must be emailed to the PRG within 14 calendar days of the meeting.
5. New requirement on web-based PRG calendar (underlined portion is new): The IOUs are to individually set up and maintain a web-based PRG calendar that can be accessed and updated by the IOU. The IOUs are to provide the following information to the public through a web-based forum: date, meeting time and duration of the meeting; the individuals participating in the meeting and organization represented by the individual; and a list of non-confidential items discussed. This information shall be maintained

on the web-based forum for at least 12 calendar months following the relevant PRG meeting, except in the case of materials related to RFOs or other applications to the Commission. Materials related to applications must be maintained until all applications (including any applications for rehearing, etc) related to those materials have been disposed by the Commission. Beyond the minimum retention time described above, this information can be moved to an archive page, which should still be publically accessible.

6. New PRG review requirement: Each IOU should confer with the PRG if material barriers to hedging arise. The PRG should discuss these barriers and potential actions that might be taken to eliminate them.
7. Revised CAM group requirements: The proposal spells out the purpose and composition of the CAM group in greater detail than the decision language. It also spells out how often the CAM group should meet.
8. Revised interview requirement of IEs (underlined portion is new): The IOU and PRG shall interview a subset of prospective candidates that the IOU, its PRG, and ED staff deem most suitable for the role. These interviews may be conducted by conference call and are subject to the PRG meeting protocols described above (2 (c)).
9. Revised IE reevaluation period (underlined portion is new): An IE may remain in the IE pool for two years, after which he/she must go through a reevaluation process based upon the inclusion criteria (see Section 1 (b)) to assure continued compliance. The IOU may commence on the reevaluation of an IE no sooner than two months before the two year reevaluation period for that IE. The reevaluation process will involve additional reviews of the IE candidate by the PRG, IOU and ED staff including additional interviews, if necessary.