

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)

**CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE'S  
REPLY COMMENTS ON TRACK I PROPOSED DECISION**

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## CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE'S REPLY COMMENTS ON TRACK I PROPOSED DECISION

Based on its review of the Track I proposed decision (PD) and other parties' comments, the California Environmental Justice Alliance (CEJA) recommends the following changes:

- Deletion of language in Conclusion of Law (COL) 7 and Ordering Paragraph (OP) 1(a) requiring procurement of a minimum 1,000 MW of new fossil fuel generation;
- Ordering Paragraph 5 should add the following:
  - (m) *Fossil fuel resources shall not be sited in environmental justice communities (or fossil fuel facilities in environmental justice communities shall be given lower rankings in the procurement process);*
  - (n) *Provisions designed to ensure preference in siting renewable energy projects in environmental justice communities, consistent with Section 399.13 of the Public Utilities Code;*
  - (o) *Provisions allowing existing OTC facilities that comply with State Water Control Board Regulations without retiring to participate in the RFO.*
- Change 1,200 MW in COL 4, COL 7 and OP 1(a) to 500 MW based on the at least 1,064 MW of DR that is projected to be available in the Western LA Basin in 2021;
- Add this sentence OP 6: *SCE shall file its procurement plan in a Tier 3 advice letter.*
- Add the following OP: *SCE shall review the CAISO's new transmission plan and its annual transmission evaluation to determine whether the minimum procurement levels should be lowered.*

### **I. Environmental Justice (EJ) Should Be Considered in SCE's Procurement Process.**

There is no need to authorize procurement of fossil fuel resources at this time under CAISO's extremely unlikely contingency event, which assumes the highest demand in 10 years, where two lines fail that have not failed in the last 10 years. If procurement is authorized, CEJA continues to urge the Commission to require consideration of EJ,<sup>1</sup> consistent with its decision in the 2006 LTPP.<sup>2</sup> This consideration is essential. Failure to consider EJ in the procurement process will exacerbate disparities already faced by environmental justice communities.

To identify EJ communities, CEJA has proposed the Environmental Justice Screening Methodology (EJSM).<sup>3</sup> The EJSM is a tool specifically designed for decision-makers to identify

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<sup>1</sup> See CEJA Opening Br. at pp. 46-48; CEJA October 9, 2012 Loading Order Comments at pp. 6-8; CEJA Comments on PD at pp. 11-12.

<sup>2</sup> D.07-12-052 at p. 157 ("the IOUs need to provide greater weight [to issues] includ[ing] disproportionate resource sitings in low income and minority communities.").

<sup>3</sup> See CEJA's October 9, 2012 Loading Order Comments at p. 7 (citing Environmental Justice Screening Method: Integrating Indicators of Cumulative Impact into Regulatory Decision-Making, Rachel Morello-Frosch, et. al., at p. 26, <http://www.epa.gov/ncer/events/calendar/2010/mar17/presentations/sadd.pdf>).

“communities of potential regulatory concern” by determining the cumulative impact of multiple hazards and social stressors.<sup>4</sup> Similar screening is already required under California law.<sup>5</sup>

The Commission should mandate that no new fossil fuel resources be sited in these already overburdened communities. These communities “already face disproportionate impacts from substandard air quality in the form of higher rates of respiratory illness, hospitalizations, and premature death.”<sup>6</sup> At a minimum, SCE should rank projects sited in EJ communities significantly lower than other projects responding to its request for offers.

The Commission should also require compliance with Section 399.13, which requires utilities to give preference to renewable resources “that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high [pollutant] emission levels.”<sup>7</sup> The Code also recognizes the interest of the State in improving economic conditions for minorities by increasing procurement of renewable energy.<sup>8</sup> To implement this policy, the Commission should require that a certain percentage of renewable resources be located within EJ communities; CEJA’s recommended amount is 25%. This value is consistent with the recently enacted SB 535, which requires at least 25% of GHG revenues provide benefits to “disadvantaged communities.”<sup>9</sup>

## **II. The 600 MW Transfer Proposal Is a Reasonable Assumption.**

The Alliance for Nuclear Responsibility takes issue with the proposed 600 MW load transfer.<sup>10</sup> However, need figures in CAISO’s Transmission Plan remain the same for the

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<sup>4</sup> *Id.*

<sup>5</sup> Cal. Health & Safety Code § 39711 (requires California EPA to “identify disadvantaged communities” by considering several factors including “[a]reas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.”).

<sup>6</sup> See SB 535 at Section 1(a) (approved by Governor on September 30, 2012), [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0501-0550/sb\\_535\\_bill\\_20120930\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0501-0550/sb_535_bill_20120930_chaptered.pdf).

<sup>7</sup> Cal. Pub. Util. Code § 399.13.

<sup>8</sup> Cal. Pub. Util. Code § 8281(b)(1)(D) (“It is in the state’s interest to expeditiously improve the economically disadvantaged position of women, minority, and disabled veteran business enterprises.”); *id.* § 8281(b)(1)(E) (“The position of these [minority] businesses can be substantially improved by providing long range substantial goals for procurement by regulated public utilities . . . services . . . especially in renewable energy . . .”).

<sup>9</sup> See SB 535, *supra* note 6

<sup>10</sup> See ANR Comments on PD at p. 6.

Western LA Basin regardless of whether the load transfer is assumed.<sup>11</sup> Thus, the load transfer should not impact the Commission's need findings. Further, CAISO's assumptions have been shown to be overly conservative on numerous fronts throughout this proceeding. CAISO support for assuming the 600 MW project demonstrates the reasonableness of this assumption.<sup>12</sup>

### **III. The SONGS Outage Is Outside the Scope of this Track of the Proceeding.**

Both SCE and CAISO mention the SONGS outage as support for additional procurement.<sup>13</sup> Attempts to bring the SONGS outage into Track I is inappropriate where other parties have been denied an opportunity to present evidence on this issue.<sup>14</sup> A fully developed record, including evidence on how CAISO has been able to meet summer loads with record high temperatures without SONGS in operation, would be required.<sup>15</sup> Thus, the current outage at SONGS should not factor into the Commission's analysis of LCR issues.

### **IV. Other Resources Should Be Permitted to Bid in To Any Request For Offers Held.**

The PD's requirement that SCE procure at least 1,000 MW of conventional gas-fired generation is inconsistent with the loading order.<sup>16</sup> CEJA and several other parties urge the Commission to permit transmission options, renewable energy, energy efficiency, and DR to fill this need.<sup>17</sup> Existing OTC facilities should also be allowed to bid into RFOs, provided the facility complies with the OTC policy, since modified OTC facilities would likely cost less than new fossil fuel resources. The Commission should also recognize that CHP fills the same functions as fossil fuel generation and give it preference as required under the loading order.<sup>18</sup>

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<sup>11</sup> See CEJA Ex. 3 (J. May Opening Test.) at p. 7; CAISO Ex. 7 (Transmission Plan) at p. 232-36; see also CAISO Ex. 1 (Sparks Test.) at p. 6, Table 1.

<sup>12</sup> See CEJA Ex. 3 citing CAISO Data Request Response ("The ISO has had preliminary discussions with SCE and based on those discussions the ISO believes it is a reasonable assumption to base the 2021 local area generation needs on the proposed [600 MW transfer] mitigation."); Sierra Club Opening Br. at p. 17.

<sup>13</sup> CAISO Comments on PD at pp. 2-3; SCE Comments on PD at p. 11.

<sup>14</sup> See e.g., Assigned Commissioner and Administrative Law Judge's Ruling Partially Granting Motion to Strike Testimony, R.12-03-014 (July 17, 2012) ("Further, as Track 1 of this proceeding concerns long-term local capacity requirements, this is not the proper venue for considering issues related to the current outage.").

<sup>15</sup> See CEJA Reply Brief at p. 6 n. 51 (discussing information it would have put into the record regarding SONGS).

<sup>16</sup> PD at p. 2; CEJA Comments on PD at pp. 7-10.

<sup>17</sup> See TURN's Comments on PD at p. 2; DECA Comments on PD at p. 3; CCC Comments on PD at p. 4; IEP Comments on PD at p. 4; NRDC Comments on PD at p. 8; WEM Comments on PD at pp. 3-5, 7-8.

<sup>18</sup> Calpine Comment on PD at pp. 1-3.

## V. There is a Need for a Strong Level of Commission Oversight of SCE’s Procurement Process.

SCE claims that the PD’s statement that: “SCE . . . will need to undertake technical studies to integrate certain preferred resources,” is inaccurate.<sup>19</sup> SCE states that it “did not indicate that it needs to conduct technical studies to integrate preferred resources . . . Instead, SCE’s proposal was to allow it significant flexibility to assess the availability . . . of preferred resources.”<sup>20</sup> On the contrary, SCE has repeatedly stated that it will conduct studies on preferred resource availability:

- “SCE will undertake studies to determine the availability and cost-effectiveness of DR and DG. . . SCE will engage CAISO to re-run its transmission modeling load flow analysis to determine the actual impact of DR And DG on LCR need. . . [if] these resources reduce the LCR need in a cost-effective manner, SCE will reduce its LCR procurement to allow future DR and DG to meet SCE’s LCR need.”<sup>21</sup>
- “As part of its authority, SCE would study the availability of competitively-priced preferred resources to meet LCR need.”<sup>22</sup>
- “What Edison would do is [a] study, probably multiple studies. It would identify each preferred resources in the loading order . . . And assess the supply that is available.”<sup>23</sup>

SCE’s recent change to its procurement approach demonstrates the need for strong Commission oversight of the procurement process. SCE has no plan for accounting for preferred resources and thus, no plan for complying with the loading order.<sup>24</sup> The Commission should require SCE to submit its procurement plan via at least a Tier 3 Advice Letter to allow for public input and ensure that preferred resources are being considered.<sup>25</sup>

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<sup>19</sup> SCE Comments on the PD at p. 10, citing PD at p. 77.

<sup>20</sup> SCE Comments on PD at p. 10.

<sup>21</sup> SCE Opening Brief at p. 12.

<sup>22</sup> SCE Reply Brief at p. 26.

<sup>23</sup> Tr. 612: 16-25 (Cushnie, SCE).

<sup>24</sup> See Sierra Club Opening Br. pp. 26-28.

<sup>25</sup> See DRA Comments on PD at pp. 3, 10-11; CEJA Comments on PD at p. 11.

## **VI. The 50 MW Energy Storage Target is Reasonable and Supported by the Record and California Law.**

The PD's 50 MW energy storage target is reasonable and well supported by the record.<sup>26</sup> Indeed, CEJA recommended that at least 48 MW of storage be considered for the Western LA Basin.<sup>27</sup> Despite SCE's concerns of cost-effectiveness expressed in its comments,<sup>28</sup> SCE has continually praised the effectiveness and viability of energy storage. For instance, SCE has found that "storage is two to three times more effective than conventional generation in meeting ramping requirements,"<sup>29</sup> and that storage is being "tested for viability, are actively looking for partnerships, and are beginning to sign substantial contracts with customers."<sup>30</sup> SCE has also received millions of dollars of ratepayer funding based on its assurance of the need for storage.<sup>31</sup> Some of SCE's other storage projects include the Techapi Wind Energy Storage Project and the outfitting of three power plants with thermal energy storage.<sup>32</sup> The record provides support for the Commission requiring SCE to procure the relatively small amount of 50 MW of storage.

The Commission has already required SCE to procure specific amounts of storage under the Public Load Shifting program.<sup>33</sup> Further, the question of whether storage should be pursued has already been decided by the California legislature,<sup>34</sup> and further supported by the Governor's Clean Jobs Plan, which calls for 3,000 MW of storage.<sup>35</sup> The Commission should continue to prioritize storage procurement with the PD's 50 MW storage target.

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<sup>26</sup> See, e.g., CEJA Ex. 1 (B. Powers Test.) at pp. 3, 14-17; CEJA Ex. (J. May Opening Test.) at pp. 29-30.

<sup>27</sup> CEJA Reply Brief at p. 2.

<sup>28</sup> SCE Comment on PD p. 3.

<sup>29</sup> CEJA Ex. 1 (B. Powers Test.) at p. 14 citing Southern California Edison, Moving Energy Storage From Concept to Reality (May 20, 2011); see also Sierra Club Opening Br. at p. 30.

<sup>30</sup> *Id.* at p. 15.

<sup>31</sup> See CEJA Opening Br. at pp. 55-56 (SCE's Smart Grid plan aims to integrate home storage and demand response technologies over a three-year time frame, and SCE has "also received \$620 million explicitly for energy storage projects with a further \$3.5 billion in smart grid investment.").

<sup>32</sup> CEJA Opening Br. at p. 55.

<sup>33</sup> See D.12-04-045 at pp. 146-51.

<sup>34</sup> See Assembly Bill 2514, codified at Cal. Pub. Util. Code § 2835, *et. seq.*

<sup>35</sup> CEJA Opening Br. at p. 54.

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Respectfully submitted,

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