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.	R. 12-03-014 (Filed March 22, 2012)

COMMENTS OF SIERRA CLUB CALIFORNIA ON PROPOSED DECISION AUTHORIZING PROCUREMENT FOR LOCAL CAPACITY REQUIREMENTS

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SUBJECT INDEX

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Pursuant to Article 14 of the Commission"s Rules of Practice and Procedure, Sierra Club California ("Sierra Club") respectfully submits the following comments on the Proposed Decision Authorizing Procurement for Local Capacity Requirements (PD) issued on December, 24, 2012.

Rule 14.3(c) provides that comments "shall focus on factual, legal or technical errors" in the Administrative Law Judge"s decision. These comments focus on the PD"s inconsistent interpretation of the Loading Order, its error in an adopting a minimum for natural gas procurement and its failure to include any demand response in the analysis despite factual support in the record for demand response reducing load and LCR need.

Although the PD claims that it "strike[s] a balance among the Commission"s three statutory directives for ensuring reliability, reasonable rates and a clean environment,"[1] the PD does not support its claims of promoting a clean environment. The PD locks-in at least 30-40 years of new fossil fuel infrastructure by authorizing 1,000 to 1,200 MW of conventional gas-fired generation. The PD argues that it complies with the Loading Order but as discussed below the PD is inconsistent with respect to implementation of the Loading Order.

[1] PD, pp. 35-36.

More fundamentally, the PD does not address the State"s long-term target of reducing emissions to 80% below 1990 levels by 2050[2] which likely requires the transition to a zero carbon energy supply.[3] Moreover, the PD does not even address the fact that it is authorizing new sources of ozone and particulate matter pollution in a region constrained by severe air pollution. The South Coast Air "Basin faces several ozone and PM2.5 attainment challenges as strategies for significant emission reductions become harder to identify and the federal standards continue to become more stringent."[4] According to the South Coast Air Quality Management District, "a transition to zero- and near-zero emission technologies is necessary to meet 2023 and 2032 air quality standards and 2050 climate goals."[5]

By locking in new conventional gas-fired generation infrastructure now, the PD steers the California energy infrastructure in the wrong direction. The Commission should reconsider and ensure that it maximizes compliance with the Loading Order before committing to any conventional gas-fired generation.

I. The PD Should Not Require a Minimum Amount of Natural Gas Procurement.

A. The Natural Gas Minimum Requirement Should Be Deleted, Because It is Inconsistent with the Loading Order.

The decision reiterates the Commission"s commitment to the Loading Order and adherence to its principles, while simultaneously adopting Conclusion of Law No. 4 that is

[2] *See* Executive Order S-3-05.
[3] *See, e.g.,* California Council on Science and Technology, California"s Energy Future: The View to 2050 (May, 20 11) at 35 (meeting 2050 target requires that "the electricity generating capacity of the state [] be almost entirely replaced and then doubled, and all with near zero-emission technology."), http://www.ccst.us/publications/2011/2011energy.php; *see also* European Wind Energy Ass"n, EU Energy Policy to 2050: Achieving 80-95% emissions reductions (Mar. 2011) at 7 (finding that achieving similar 2050 reduction target in Europe "is only certain if the power sector emits zero carbon well before 2050."); http://www.ewea.org/fileadmin/ewea_documents/documents/publications/reports/EWEA_EU_Energy_Policy_to_2050.pdf;
[4] Draft 2012 Air Quality Management Plan, South Coast Air Quality Management District (July, 2012), p. 1-19.
[5] *Id.*, p. 1-20

inconsistent with the Loading Order. The PD should be changed to ensure compliance with the Loading Order.

By requiring a certain amount of conventional gas-fired generation, the PD acts contrary to the Loading Order and its own interpretation of the Loading Order. The PD reaffirms the Commission"s position that the Loading Order creates an on-going obligation to assess procurement of preferred resources.[6] The PD explains that "[i]n D.12-01-033 at 21, the Commission recognizes that procuring additional preferred resources is more difficult than „just signing up for more conventional fossil fuel generation," but consistency with the Loading Order and advancing California"s policy of fossil fuel reduction demand strict compliance with the loading order."[7] The PD further explains that "[i]nstead of procuring a fixed amount of preferred resources and then procuring fossil-fuel generation resources, the IOUs are required to continue to procure the preferred resources „to the extent that they are feasibly available and cost-effective.""[8]

Conclusions of Law Nos. 1 and 2 correctly articulate the statutory basis of the Loading Order, but Conclusion of Law No. 4 creates an inconsistency with the Loading Order. It states in part: ". . . except for amounts above 1,200 MW in the LA basin local area and a requirement to procure 50 MW of energy storage resources, SCE must have provisions designed to be consistent with the Loading Order approved by the Commission in the Energy Action Plan and § 454.5(b)(9(C)."[9] This conclusion requires the purchase of fossil fuel first and does not allow up to 1,200 MW of preferred resources to compete with fossil fuel resources. This requirement conflicts with the PD"s statement that "[t]o the extent that the availability, viability and

[6] PD, p. 11.
[7] *Id.*
[8] *Id.*
[9] PD, p. 121.

effectiveness of resources higher in the Loading Order are comparable to fossil-fueled resources, [the PD] intend[s] to ensure that SCE contracts with these preferred resources first."[10] The PD cannot have it both ways. While it is true that the PD"s assumption of higher amounts of energy efficiency and CHP promote "the policies of the Loading Order"[11] and reduce LCR need, it does not follow that this is sufficient to comply with the Loading Order. In fact, lack of compliance is created by the PD requiring a minimum procurement of fossil fuel generation.

Sierra Club agrees with the PD that is important to have a maximum limit on the amount of conventional gas-fired resources.[12] As the PD explains, any need, if necessary, for additional LCR procurement can be addressed in subsequent proceedings.[13] However, the corollary, that a minimum amount of fossil procurement is necessary to prevent under-procurement, is contrary to the PD"s intent to ensure that SCE procure cost-effective preferred resources first. To solve this inconsistency in the PD, the PD should eliminate the requirement of a minimum of 1,000 MW of fossil-fuel generation procurement. As the PD explains, the Loading Order requires that preferred resources be procured first if these resources meet the relevant criteria. If there are sufficient preferred resources to meet or reduce LCR need, the amount of procured fossil-fuel generation should correspondingly be reduced.[14]

To conform to the Loading Order both Conclusions of Law No. 4 and No. 7 should be changed. Conclusion of Law No. 4 should read:

"SCE"s procurement process should have no provisions specifically or implicitly excluding any resource from the bidding process due to technology, except for ~~amounts above 1,200 MW in the LA basin local area and~~ a requirement to procure 50 MW of energy storage

[10] PD, p. 77.
[11] PD, p. 76.
[12] PD, p. 79.
[13] PD, pp. 63-64.
[14] PD, pp. 10-11.

resources,[15] SCE must have provisions designed to be consistent with the Loading Order approved by the Commission in the Energy Action Plan and § 454.5(b)(9(C)."

Allowing full compliance with the Loading Order may also result in an exceedance of the PD"s limit on the procurement of 450 MW of preferred resources. To conform Conclusion of Law No. 7 to the Loading Order and the proposed change, it should be edited as follows:

"SCE should be authorized to start the process to procure a maximum of 1,500 MW in the West LA sub-area of the LA basin local reliability area. No more than 1,200 MW should be from conventional gas-fired sources. Up to the 1,450 MW ~~up to 450 MW~~ may be from preferred and/or energy storage resources in addition to resources already authorized or required to be obtained via Commission decisions in energy efficiency, demand response, RPS and relevant dockets." Including energy storage in Conclusion of Law 7 corresponds with the Proposed Order that allows procurement of preferred resources as well as energy storage resources.[16] Sierra Club agrees with the PD that "[t]he record shows that there may be a significant amount of energy storage capacity and/or demand reduction from demand response resources in the next several years which are not included in any ISO model."[17] As such, it is reasonable to include energy storage in the procurement authorization.[18]

These changes to Conclusion of Law No. 7 also make the PD more internally consistent. For example, these changes reinforce Conclusion of Law No. 13 which requires SCE "to determine the availability and cost-effectiveness of preferred resources, and energy storage resources, that can offer the necessary characteristics to meet or reduce LCR needs. SCE should

[15] Sierra Club agrees with the PD that the record shows the energy storage will be part of the solution to LCR need. (PD, pp. 60, 63) Accordingly, Sierra Club supports an initial procurement target for energy storage and supports including authorization to procure energy storage as method to meet or reduce LCR need.
[16] PD, p. 124 (Order Sections 1.b-1.c.) Section 1.c of the proposed order would also need to be conformed to 1,450 MW for preferred resources.
[17] PD, p. 79.
[18] *See infra* Sec. II (arguing for inclusion of demand response resources).

then be required to work with the ISO to re-run its transmission modeling load-flow analysis to determine the impacts of such resources. To the extent such resources meet or reduce LCR needs, SCE should reduce procurement of non-preferred resources."[19] An artificial maximum limit on preferred resources and energy storage may stop the procurement of cost-effective preferred or energy storage resources that meet or reduce LCR need.

B. New Information Regarding LCR's Procurement Should Be Included in SCE's Bundled Plan.

The PD lists several methods of reducing LCR need that are not fully developed on this record. To encourage and maintain transparency in the LCR procurement process, the PD should require that this information be included in SCE"s bundled plan filing.

The PD authorizes SCE to procure the up to 1,519 MW of distributed generation even if this exceeds the 1,500 MW cap.[20] However, the PD explains that the Commission does not know, and the record does not reflect, how much of the 1,519 MW of distributed generation will be available to meet SCE"s LCR need.[21] Since the PD adopts the Environmentally Constrained portfolio, to ensure that the 1,519 MW is achieved, the PD provides authorization for any amount of gap in existing programs. Since the record does not provide an indication of the magnitude of this authorization, it is important to provide the parties with this information to facilitate transparency and to provide a basis for any incremental use of preferred resources.

Similarly, any additional reductions should also be documented in SCE"s bundled plan. For example, the PD states:

> It is possible or even likely that there are certain mitigation options for transmission constraints or certain transmission upgrades which were not fully considered by the ISO and which may become feasible. It is also possible that certain transmission fixes may become feasible and cost-effective, including the

[19] PD, p. 122.
[20] PD, p. 77.
[21] PD, p. 58.

use of synchronous condensers, static var compensators and shunt capacitors, all of which SCE considers annually.[22]

C. The Commission Should Provide for Public Review of SCE's Procurement Plan.

The PD requires Energy Division to review and approve SCE"s procurement plan, but does not provide for public review. Basic principles of transparency should apply SCE"s LCR procurement plan. Additionally, the decision was hotly contested and interest in the outcome will remain high. The PD should be modified to include public review. At the very least, the PD should require a Tier 3 advice letter which allows for some review by the parties.

II. The PD Should Include Demand Response in the LCR Need Calculation.

The PD recognizes that, contrary to ISO assumptions, energy efficiency and distributed generation will affect LCR need in the LA Basin, but does not apply the same logic to its discussion of demand response. The PD should reflect the fact that demand response is currently in operation in the LA Basin, is expected to grow, and will affect LCR need in the area.

Finding of Fact No. 20 should be deleted, because the record does provide support for quantifying local demand response resources. Finding of Fact No. 20 states: "The record does not provide a way to quantify any amount of locally-dispatchable demand response for the purposes of determining the LCR need in this proceeding."[23] SCE witness Silsbee"s testimony during cross examination directly contradicts Finding of Fact No. 20.[24] The PD does not consider data presented by Silsbee detailing major demand response programs currently in effect in the Western LA Basin. According to Silsbee"s calculations, at least 549.33 MW of demand

[22] PD, p. 44.
[23] PD, p. 116.
[24] Transcript, Vol. 6, p. 1079, line 12 - p. 1084, line 8; CEJA x SCE 03.

response is available in the Western LA Basin.[25] He did not analyze smaller demand response programs, so the number is likely higher.[26] Of these 549.33 MW of demand response, 102.33 MW are in the most effective locations, and 249.63 MW are in secondarily effective locations.[27] Silsbee testified during cross examination that the programs accounting for these demand response amounts will likely last into 2020.[28] As discussed in the PD, demand response will grow and will likely influence demand forecasts and LCR need in the future.[29] Given Silsbee"s testimony, the Commission should include an estimate of demand response resources when establishing LCR need.

The PD finds that there is no basis to include any demand response in its demand forecast without CAISO study results from a scenario that includes demand response resources.[30] This is unreasonable, because CAISO refused to include demand response in its analysis. In the energy efficiency discussion, the Commission defined the central issue as "whether some amount of uncommitted energy efficiency is certain enough to reduce demand through 2021."[31] The decision goes on to find that given energy efficiency"s place at the top of the Loading Order and the state"s firm commitment to advancing energy efficiency in the coming decade, uncommitted energy efficiency estimates should be higher than those found in the ISO trajectory scenario.[32] The PD agrees that energy efficiency programs that have been approved, even if not yet achieving reductions, should be considered in the demand forecasts as reducing LCR need. The PD finds "that amounts of uncommitted energy efficiency in programs and standards already

[25] CEJA x SCE 03.
[26] Transcript, Vol. 6, p. 1083, line 16 - p. 1084, line 3.
[27] CEJA x SCE 03.
[28] Transcript, Vol. 6, p. 1084, lines 4-8 ("Q: Do you expect all of these programs that are reflected on [*sic]* this exhibit to be in existence in 2020? A: In some form or another. I think that"s likely.")
[29] PD, pp. 53-54.
[30] PD, p. 54.
[31] PD, p. 45.
[32] PD, pp. 47-48.

approved by this Commission and other agencies, but not yet in the demand forecast used by the ISO, should result in adjustments to demand forecasts for the purposes of authorizing LCR procurement levels."[33] In contrast, the PD does not include demand response programs that are being implemented now and that are expected to continue through 2020, despite demand response"s importance in the Loading Order and the impact that demand response resources will have on LCR need in the Western LA Basin.

At the very least, the PD should assume that demand response programs now in place in the Western LA Basin will continue. Moreover, given the likelihood of demand response"s growth in the next decade, as recognized by the PD, a more realistic estimate would assess the amounts of demand response likely to be available in the future. The PD finds that "at least some future demand response programs are likely to meet ISO criteria for meeting LCR needs."[34] The PD then explains that "[e]stimates of over 2,000 MW of demand response are probably overly optimistic for local reliability purposes, but there is significant potential for this resource if demand response can be accepted by the ISO to meet LCR criteria."[35] Given these findings and the placement of demand response at the top of the Loading Order, it is unreasonable to include zero demand response in the LCR need calculation. In its testimony, CEJA estimated that 1,064 MW should be considered in the LCR calculation.[36] The LCR need number should be reduced to account for the quantifiable demand response that it is in the record. While it is difficult to quantify the exact reduction appropriate for DR resources given the CAISO's failure to run a comprehensive analysis, at a conservative minimum the total load should be reduced 500 MW,

[33] PD, p. 48.
[34] PD, p. 54
[35] *Id.*
[36] CEJA Opening Brief, p. 35.

an amount less than the total identified by Silsbee. This would lower the maximum procurement authorization to 1,000 MW.[37]

CONCLUSION

Sierra Club requests that the Commission revise the Proposed Decision as recommended in these Opening Comments.

Respectfully submitted,

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[37] *See* Appendix (the Appendix reflects the additional changes to Conclusion of Law No. 7 and the Proposed Order based on including demand response resources than those described in Sec. I).

APPENDIX

Finding of Fact No. 20

~~The record does not provide a way to quantify any amount of locally-dispatchable demand response for the purposes of determining the LCR need in this proceeding~~.

Conclusion of Law No. 4:

SCE"s procurement process should have no provisions specifically or implicitly excluding any resource from the bidding process due to technology, except for ~~amounts above 1,200 MW in the LA basin local area and~~ a requirement to procure 50 MW of energy storage resources, SCE must have provisions designed to be consistent with the Loading Order approved by the Commission in the Energy Action Plan and § 454.5(b)(9(C).

Conclusion of Law No. 7:

SCE should be authorized to start the process to procure a maximum of 1,000 ~~1,500~~ MW in the West LA sub-area of the LA basin local reliability area. No more than 700 ~~1,200~~ MW should be from conventional gas-fired sources. Up to the 950 MW ~~up to 450 MW~~ may be from preferred and/or energy storage resources in addition to resources already authorized or required to be obtained via Commission decisions in energy efficiency, demand response, RPS and relevant dockets

Order Paragraph 1.a:

a. ~~At least 1,000 MW, but n~~ No more than 700 ~~1,200~~ MW, of this capacity must be from conventional gas-fired resources;

Order Paragraph 1.c:

c. Up to 950 ~~450~~ MW of capacity may be procured through preferred resources consistent with the Loading Order of the Energy Action Plan and/or energy storage resources. Distributed generation procured as part of this authorization must be incremental to the 1,519 MW of distributed generation already forecast to be available in the LA Basin in the California Independent System Operator Environmentally Constrained portfolio. To the extent that 1,519 MW of distributed generation has not already been authorized in other Commission decisions, such authorization is granted here.

New Conclusion of Law:

SCE"s bundled plan should include an explanation of the amount of additional distributed generation authorization resulting from the decision"s authorization of up to 1,519 MW of distributed generation. Additionally, the bundled plan should include any additional reductions to LCR need from other mitigation such as transmission upgrades.