

**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 SOUTH SAN JOAQUIN IRRIGATION DISTRICT ON PROPOSED  
DECISION REGARDING LONG TERM PROCUREMENT FOR LOCAL  
RELIABILITY**

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3. The Proposed Decision should be revised to clarify that local reliability CAM costs incurred by IOUs should not be allocated to POUs since the current CAM mechanism provides no means or mechanism to allocate local reliability costs and benefits in a fair, equitable and reciprocal manner as between IOUs and POUs and, absent such a mechanism, allocating IOU local reliability CAM costs to POUs would violate the ratepayer indifference principle and create anti-competitive effects. . . . Page 5-6.
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Pursuant to Article 14 of the California Public Utilities Commission's Rules of Practice and Procedure, South San Joaquin Irrigation District ("SSJID") respectfully submits these Opening Comments on the Proposed Decision of Administrative Law Judge Gamson regarding long term procurement for local reliability ("Proposed Decision").

The Proposed Decision addresses a number of issues concerning long term procurement for local reliability, but only briefly discusses the issues addressed by SSJID in this proceeding regarding allocation of local reliability costs to Publicly Owned Utilities ("POUs"), and potentially SSJID, through the CAM and dismisses SSJID's recommendations without any substantive discussion. For the reasons set forth below, SSJID urges the Commission to revise the Proposed Decision to fully consider the evidence and recommendations of SSJID. SSJID further urges the Commission to clarify that local reliability CAM costs incurred by Investor owned Utilities ("IOUs") should not be allocated to POUs since (1) no statute or prior Commission precedent requires that CAM costs be allocated to POUs; (2) the current CAM mechanism provides no means or mechanism to allocate local reliability costs and benefits in a fair, equitable and reciprocal manner as between IOUs and POUs and, absent such a mechanism, allocating IOU local reliability CAM costs to POUs would violate the ratepayer indifference principle; and (3) allocating CAM costs to POUs would have inappropriate and unlawful anticompetitive impacts.

**I. THE PROPOSED DECISION SHOULD BE REVISED TO ADDRESS THE MERITS OF SSJID'S RECOMMENDATIONS**

SSJID participated in this proceeding to address an issue of significant potential importance to it and its pending plan to provide retail electric service within its existing service area, specifically whether local reliability costs incurred by IOUs that have system benefits and may benefit POUs as well as other load serving entities, should be allocated, in part, to such POUs, potentially including SSJID, through the CAM. The Proposed Decision briefly mentions this issue and SSJID's recommendations. It contains no substantive discussion of any of the evidence presented by SSJID, however, and declines to clarify or refine the CAM to address the deficiencies raised by SSJID.<sup>1</sup>

The Proposed Decision should be revised to more fully discuss and address SSJID's evidence and recommendation in this proceeding. SSJID's evidence demonstrates significant deficiencies in the CAM that preclude this mechanism from meeting the Commission's objective of ratepayer indifference in regard to local reliability procurement costs as between IOUs and POUs; further demonstrates that allocating CAM costs to POUs would have inappropriate anticompetitive effects; and also demonstrates that there is no basis or justification for allocating CAM costs to SSJID. These issues, as set forth more fully in SSJID's testimony and briefs, are within the scope of the proceeding as set forth in the Commission's Scoping Memo. The parties have had an opportunity to address the matter in hearings, and the Commission has an adequate record upon which to decide the matter. The Proposed Decision should therefore be revised to fully address these issues.

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<sup>1</sup> See Proposed Decision, mimeo at 108-109.

## II. NEITHER THE PUBLIC UTILITIES CODE NOR PRIOR COMMISSION PRECEDENT REQUIRE LOCAL RELIABILITY COSTS TO BE ALLOCATED TO POUS

Southern California Edison (“SCE”) has alleged that Public Utilities Code Section 365.1 (c)(2)(A) requires that CAM costs be allocated to large municipalizations.<sup>2</sup> SCE is incorrect.

The statute says no such thing. It reads:

[T]he net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the Commission, to all of the following:

- (i) Bundled service customers of the electrical corporation.
- (ii) Customers that purchase electricity through a direct transaction with other providers.
- (iii) Customers of community choice aggregators.<sup>3</sup>

Contrary to SCE’s claims, the statute makes no mention of allocating such costs to POUs. Moreover, in D.11-05-005, the Commission concluded that subsections (i), (ii) and (iii) of section 365.1 (c)(2)(A) refer to bundled, direct access, and CCA customers, not municipal departing load.<sup>4</sup>

SCE also claimed that the Commission has held that the CAM applies to “large municipalizations”<sup>5</sup> and cited D.08-09-012 in support of this claim. SCE is incorrect in this regard as well. D.08-09-012 makes clear that the Commission has not yet ruled on whether it is fair to charge any large POU municipal departing load CAM and other exit fees related to new generation. It states:

For departing loads of large municipalizations that are not reflected in the historical trends used in developing the adopted [Long-Term Procurement Plan (LTPP)] load forecasts, the IOUs should file an

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<sup>2</sup> Exhibit SCE-5 (Cushnie) at 3.

<sup>3</sup> Pub. Util. Code Section 365.1 (c)(2)(A).

<sup>4</sup> D.11-05-005, mimeo at 7-8.

<sup>5</sup> Exhibit SCE-5 (Cushnie) at 1.

application requesting a Commission determination of the fair share of these customers for paying the D.04-12-048 and D.06-07-029 NBCs.<sup>6</sup>

The decision's summary also confirms that no decision as to whether a large municipalization should be allocated such costs shall be made until further proceedings have been held and concluded.<sup>7</sup> Rather than making a determination on this matter in D.08-09-012, the Commission determined only that a separate application should be filed to determine the "fair share" of both exit fees and CAM charges on a case-by-case basis. The fair share may be zero.

Contrary to SCE's claims, neither the Public Utilities Code, nor prior Commission precedent require CAM charges to be assigned to POU's or to municipal departing load. The Proposed Decision should be revised to acknowledge this.

### **III. ALLOCATING IOU LOCAL RELIABILITY CAM COSTS TO POU'S WOULD VIOLATE THE RATEPAYER INDIFFERENCE PRINCIPLE AND HAVE INAPPROPRIATE AND UNLAWFUL ANTICOMPETITIVE IMPACTS.**

The evidence presented by SSJID in this proceeding demonstrates a very serious and fundamental flaw in the current CAM. Allocating costs incurred by IOUs for generation that provides local reliability system benefits to POU's, including SSJID, through the CAM would be contrary to the Commission's well-established indifference principle and would result in POU's and their customers bearing a disproportionate amount of the system cost for local reliability.

The reason for this is that system reliability benefits are provided by POU as well as IOU procurement, but the current CAM fails to account for such benefits. Under the CAM, IOUs have a means of allocating a portion of the cost that they incur for investments that have local reliability system benefits to other load serving entities, potentially including POU's under certain circumstances, but there is no means or mechanism for POU's to recover costs from IOUs for POU investments that provide similar local reliability system benefits. This asymmetry in the

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<sup>6</sup> D.08-09-012, mimeo at 104 (Conclusion of Law 4).

<sup>7</sup> D.08-09-012, mimeo at 3.



CAM is a fundamental flaw that precludes a fair allocation of local reliability system costs through this mechanism.

This is not an academic issue. SSJID provided evidence in this proceeding that POUs have recently added more than 500 MW of new capacity in the SSJID resource area in the Central Valley.<sup>8</sup> PG&E customers benefit from the additional system reliability these investments provide. Yet, PG&E's customers have not paid a cent for the system benefits that they receive from this 500 MW of new capacity.

Charging customers of POUs for local reliability benefits they may receive from IOU power development without allowing POUs to charge IOU customers for similar benefits they may receive from POU power development is inequitable and contrary to the Commission's indifference principle that is the underlying basis for the CAM.<sup>9</sup>

Allocating costs incurred by IOUs for generation that provides local reliability system benefits to POUs, would also have potentially significant anticompetitive effects since it would economically benefit IOUs and burden POUs by imposing a disproportionate amount of the system costs for local reliability on POUs. Under *Northern California Power Agency*, 5 Cal.3d 370 (1971), the Commission has a duty to consider such anticompetitive effects in issuing its decision in this proceeding.

#### **IV. THERE IS NO JUSTIFICATION FOR ALLOCATING ANY LOCAL RELIABILITY CAM COSTS TO SSJID**

Finally, the evidence presented by SSJID also demonstrates that there is no justification for allocating any local reliability CAM costs to SSJID. Since more than 500 MW of new capacity has been developed by POUs in the SSJID resource area over the past year,<sup>10</sup> there should be no capacity shortage in the SSJID service area for the foreseeable future and no need

<sup>8</sup> SSJID/Shields, Hearing Transcript, Volume 9 at 1369.

<sup>9</sup> See SSJID Opening Brief, at 4-6, for further discussion of this matter.

<sup>10</sup> SSJID/Shields, Hearing Transcript, Volume 9 at 1369.

or justification for PG&E to procure new capacity on behalf of SSJID customers. PG&E could potentially do so, however, in an attempt to increase exit fees for SSJID customers and increase the cost of SSJID's municipalization. The Commission should prevent any such mischief by concluding that there is no justification for allocating any CAM reliability costs to SSJID or to any other POU under these circumstances.

## V. CONCLUSION

For the reasons set forth in these Comments, and more fully in SSJID's testimony and briefs in this proceeding, SSJID urges the Commission to revise the Proposed Decision to more fully discuss and address SSJID's evidence and recommendations in this proceeding and to incorporate the additional findings of fact and conclusions of law recommended by SSJID set forth in appendix to these Comments.

Respectfully submitted,

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## APPENDIX

### PROPOSED REVISIONS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Findings of Fact in the Proposed Decision should be revised to include the following additional Findings:

1. A number of POUs, including SSJID, have recently invested in 500 MW of new generating resources that provide local reliability system benefits in Northern California.
2. In order to ensure ratepayer indifference in regard to the allocation of local reliability costs, ratepayers should be neither harmed by nor benefit from the allocation of such costs between IOUs and other load serving entities.
3. The current CAM mechanism provides a means to allocate to POUs local reliability costs incurred by IOUs that provide system benefit, but provides no means or mechanism to allocate to IOUs local reliability costs incurred by POUs that provide similar system benefits.
4. Allocating local reliability costs incurred by IOUs to POUs through the CAM under these circumstances would provide a net benefit to IOU ratepayers at the expense of POU ratepayers and would violate the ratepayer indifference principle that the Commission has cited and relied upon to justify the CAM.
5. Allocating local reliability CAM costs incurred by IOUs to POUs under these circumstances would have inappropriate anticompetitive impacts.
6. The Proposed Decision should be revised to clarify that local reliability CAM costs incurred by IOUs should not be allocated to POUs since the current CAM mechanism provides no means or mechanism to allocate local reliability costs and benefits in a fair, equitable and reciprocal manner as between IOUs and POUs and, absent such a

mechanism, allocating IOU local reliability CAM costs to POUs would violate the ratepayer indifference principle and have inappropriate and unlawful anticompetitive impacts.

7. There is no need or justification for allocating any local reliability CAM costs to SSJID.

Conclusion of Law No. 17 should be revised to read as follows:

17. Except as otherwise provided for herein, ~~The~~ cost allocation mechanism established in D.06-07-029 and refined in D.07-09-04, D.08-09-012 and D.11-05-005 remains reasonable for application in this proceeding without modification.

The Conclusions of Law in the Proposed Decision should be revised to include the following additional Conclusions:

1. Neither the Public Utilities Code nor prior Commission precedent requires local reliability costs incurred by IOUs to be allocated to POUs or municipal departing load.
2. Allocating local reliability CAM costs incurred by IOUs to POUs would have unlawful anticompetitive impacts since the current CAM mechanism provides a means to allocate local reliability costs incurred by IOUs that provide system benefit to POUs, but provides no means or mechanism to allocate local reliability costs incurred by POUs that provide similar system benefits to IOUs.