

**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 COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON THE PROPOSED
DECISION ON TRACK 1 ISSUES**

INDEPENDENT ENERGY PRODUCERS
ASSOCIATION
Steven Kelly
Policy Director
1215 K Street, Suite 900
Sacramento, CA 95814
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
Email: steven@iepa.com

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

Attorneys for the Independent Energy Producers
Association

Dated: January 22, 2013

**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 COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON THE PROPOSED
DECISION ON TRACK 1 ISSUES**

The Independent Energy Producers Association (IEP) submits the following reply comments on the Proposed Decision (PD) of Administrative Law Judge David Gamson, issued on December 21, 2012.

In response to the PD, parties' comments generally restate their litigation positions. Some parties advocate reducing (if not totally eliminating) any local capacity requirements (LCR) procurement associated with conventional natural gas at this time, and replacing the reduced natural gas capacity with preferred resources,¹ primarily cost-effective energy efficiency, demand response, distributed generation, and energy storage. Other parties raise concerns that the PD's maximum limit on local area procurement is insufficient to maintain local grid reliability, particularly because of the schedule for retiring units using once-through cooling (OTC) and uncertainties related to the availability of capacity from the San Onofre Nuclear Generating Station (SONGS).²

¹ Comments of California Environmental Justice Alliance, the Sierra Club, and the Natural Resources Defense Council.

² Comments of the California Independent System Operator, Southern California Edison Company, and the Alliance for Nuclear Responsibility.

The record in this proceeding identifies a number of unique, critical factors that pose a formidable challenge to maintaining grid reliability in the 2020/2021 timeframe. The PD correctly accepts the conclusion that OTC units will shut down or repower consistent with the schedules established by the regulations of the State Water Resources Control Board. As noted by the PD, retirements of OTC units represent a potential loss of around 7,000 MW in the LA basin local area and the Big Creek/Ventura local area by 2021.³ In addition, the same region faces the risk of losing all or a significant portion of the 2,300 MW capacity of the two SONGS units. Thus, the LA Basin is at risk of losing at least 7,000 MW and potentially as much as 9,000 MW of supply during this Long-Term Procurement Plan (LTPP) planning horizon, including a significant amount of flexible capacity with quick start and fast ramping capabilities.

In response to this risk, the PD authorizes Southern California Edison Company (SCE) to procure merely 1,000-1,200 MW of capacity from conventional natural gas resources. This represents a replacement of 13% of the *existing* 9,000 MW of capacity at risk of shut-down. In addition, the PD authorizes procurement of up to 500 MW of preferred resources (*i.e.*, energy efficiency, demand response, distributed generation, and storage). This authorization represents a replacement of 6% of the existing capacity at risk of shut-down. Moreover, because the total procurement authorization is capped at 1,500 MW, the authorized procurement is only 17% of the existing capacity at risk of retirement. Even if the Commission were to assume zero risk of a SONGS shut-down in whole or in part, the PD's 1,500 MW authorization represents replacement of only 21% of the existing capacity resources known to be at risk of retirement.⁴ Viewed in another light, the PD essentially defers to the next LTPP proceeding (2014-2015) the procurement authorization necessary to replace nearly 80% of the capacity that is at risk of

³ PD, p. 6.

⁴ This figure assumes that economic growth will be relatively modest as reflected in the various planning scenarios. If California's economy grows more aggressively, as occurred in 2006, the potential need will increase.

retirement by 2020. This schedule suggests that new generation infrastructure, and certainly any resources procured using power purchase agreements requiring Commission review and approval, will not receive approval to build new capacity needed by 2020/2021 until 2016 or later.

As noted in IEP's Comments, the PD's approach is premised on a number of risky assumptions. Can the Commission realistically expect *any* new or repowered clean, flexible natural gas fired generation to be operational by 2020 if final Commission approvals are not received until 2016 or later? In the absence of additional conventional natural gas resources, in their stead does the Commission really expect 9,000 MW of preferred resources to be available in 2020 to reliably fill the capacity need?⁵

As pointed out by the CAISO's witness, the consequences of being marginally short versus marginally long are asymmetric. A capacity shortage can jeopardize public safety and the economy, but being long only affects marginal costs.⁶

In response to the identified capacity need, the PD endorses the principle advocated by IEP that no resources capable of meeting the projected need should be precluded from bidding in the utilities' Requests for Offers (RFOs).⁷ The corollary to this principle, however, is the principle that winning bidders must make the operational and financial commitments necessary to provide reasonable certainty that the resource will be available to serve the LCR need when and where it exists. Unfortunately, the PD is silent on this latter principle. However, if the PD were modified to embrace both principles, then the PD could provide a suitable path for proceeding forward, *i.e.*, using the mechanism of an all-source

⁵ This presentation assumes that forecasted energy efficiency reduces demand and, thus, the benefits of this preferred resource are fully accounted for in the forecasts of future need.

⁶ PD, p. 22; see Alliance for Nuclear Responsibility's Comments, p. 12, n.34.

⁷ IEP's Comments, p. 4.

competitive solicitation, applying least-cost/best-fit principles to identify the projects that can reliably provide the capacity products needed by 2020/2021 at the lowest cost.

In this context and in light of parties' comments, the PD should be modified to either (1) authorize SCE to procure the need identified in the Environmentally Constrained scenario used in the studies performed by the CAISO (1,870 – 2,884 MW), or (2) adopt IEP's recommendation for a staged procurement.⁸ IEP's staged procurement proposal is that the Track 1 decision in this LTPP should prescribe the following path forward. The Commission should:

1. State the Commission's policy that all-source solicitations should present no barriers to participation to any qualifying resources, including preferred resources.
2. Direct the utilities to impose comparable performance requirements and security obligations on all bidders.
3. Authorize in this LTPP a "Two-Step Procurement Mechanism" to maintain grid reliability. As **Step 1**, authorize SCE to commence an all-source solicitation within 90 days of the adoption of this Track 1 Decision (*i.e.*, in 2013) to acquire up to 1,500 MW, including 1,000-1,200 MW of conventional gas generation and up to 450 MW of preferred resources. As **Step 2**, authorize SCE to commence a second, additional all-source solicitation within 60 days of submitting a report to the Energy Division reporting the results of Step 1. Absent an Energy Division objection to the Step 1 Report, in addition to making up for any failure of Step 1 to procure the target quantities, SCE would be authorized to procure in the 2014 RFO additional resources totaling the need identified in the Environmentally Constrained scenario used in the studies performed by the CAISO (1,870 – 2,884 MW).

⁸ IEP's Comments, p. 2.

Because up to 9,000 MW of capacity that has historically served the LA Basin may not be available in 2020/2021, delaying critical decisions related to replacing this capacity is highly risky. Delaying these critical decisions to 2016 or beyond exacerbates the risk, and potentially places the Commission in a much more difficult position, as otherwise attractive options may not be available to meet the need by 2021. Accordingly, IEP respectfully urges the Commission to modify the PD as recommended in these comments and to approve the PD as modified.

Respectfully submitted this 22nd day of January, 2013 at San Francisco, California.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@goodinmacbride.com

By /s/ Brian T. Cragg

Brian T. Cragg

Attorneys for the Independent Energy Producers
Association