

**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 NRG ENERGY, INC. ON
PROPOSED DECISION AUTHORIZING LONG-TERM
PROCUREMENT FOR LOCAL CAPACITY REQUIREMENTS**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), NRG Energy, Inc. (“NRG”)¹ submits these reply comments on the Proposed Decision Authorizing Long-Term Procurement for Local Capacity Requirements issued on December 21, 2012 in this proceeding (“PD”).²

As discussed in NRG’s opening comments, the record supports the full amount of procurement that the California Independent System Operator (“CAISO”) has requested for the LA Basin and Big Creek/Ventura local reliability areas. Although the PD reduces the CAISO’s recommended levels of procurement significantly, many of the opening comments argue for further reductions to those levels and for delay in commencing procurement to meet local reliability needs.³ Such comments merely restate parties’ litigation positions and do not support

¹ On December 14, 2012, GenOn Energy, Inc. merged into a subsidiary of NRG Energy, Inc. Both NRG Energy, Inc. and GenOn Energy, Inc. are parties to this proceeding. Going forward, NRG Energy, Inc. will represent the interests previously represented by GenOn Energy, Inc. in this docket. For purposes of these comments, “NRG” refers to both NRG Energy, Inc. and GenOn Energy, Inc.

² Pursuant to the cover letter accompanying the PD, reply comments were due January 21, 2013, but because that day was a state holiday, these reply comments are timely filed pursuant to Rule 1.15 of the Commission’s Rules of Practice and Procedure.

³ See e.g., Opening Comments of Division of Ratepayer Advocates, pp. 2, 5-6, 11-12; Opening Comments of The Utility Reform Network, pp. 3, 5-6; Opening Comments of Natural Resources Defense Council, Clean Coalition, and Community Environmental Council, pp. 7-9.

further reductions in the procurement levels authorized in the PD or delay in starting the procurement process. In fact, many of these same parties compliment the PD for its reasoned balancing of competing factors, and then argue that procurement levels should be reduced. The PD cites ample evidence demonstrating that its recommended procurement levels represent the very low range of procurement necessary to support reliable service for California consumers. At a minimum, the Commission should adopt the procurement ranges identified in the PD.

These reply comments focus on one statement in opening comments filed by the Community Environmental Council (“CE Council”). CE Council incorrectly states that the procurement identified in the PD for the Big Creek/Ventura local reliability area is only a “suggestion” by this Commission to Southern California Edison Company (“SCE”). In fact, the PD requires SCE to procure a minimum amount of new capacity in the Big Creek/Ventura local reliability area, *i.e.*, at least 215 MW.⁴ For the avoidance of doubt, the Commission may wish to clarify that CE Council’s interpretation of the PD is incorrect.

II. THE PD APPROPRIATELY REQUIRES SCE TO PROCURE A MINIMUM AMOUNT OF NEW CAPACITY IN BIG CREEK/VENTURA.

In its opening comments, CE Council argues against the procurement mandated for the Big Creek/Ventura local reliability area. CE Council states that “[i]t is not clear why the PD makes this determination since SCE is not even requesting [local capacity requirements, or LCR] authorization for this area at this time. Moreover, this authorization will have no effect because it is permissive, rather than a requirement, and SCE has already made it clear that it does not intend to procure any resources in this area at this time.”⁵

CE Council is incorrect. The PD clearly requires SCE to procure a minimum amount of new capacity in the Big Creek/Ventura local reliability area. For example, on page 89, the PD

⁴ See, e.g., PD, p. 71 (“Therefore the minimum procurement level for the Moorpark sub-area will be 215 MW.”)

⁵ Opening Comments of CE Council, p. 3.

directs SCE to file applications seeking approval of contracts for new capacity as soon as practical, and states that such applications “shall show,” among other things “. . . Procurement of between 215 and 290 MW to meet local capacity requirements in the Big Creek/Ventura local reliability area” The use of the term “shall,” and the specification of a minimum procurement quantity, confirm that SCE is required to procure and seek Commission approval of contracts for at least 215 MW of capacity in Big Creek/Ventura.

Perhaps CE Council’s misapprehension stems from the fact that the PD announces certain broad policy conclusions in the LA Basin section of the PD, which are then applied without being repeated as such in the Big Creek/Ventura section of the PD. In the LA Basin section, the PD makes it absolutely clear that there is a minimum procurement requirement for SCE. In that section, the PD finds that “[i]t is reasonable to require a minimum procurement level to ensure reliability.”⁶ Finding of Fact 30 confirms that this requirement applies equally to Big Creek/Ventura by stating without qualification that “A minimum LCR procurement level is necessary to ensure reliability.” Further, the PD on page 71 makes it clear that this minimum procurement requirement applies in the Big Creek/Ventura local reliability area when it states that “the minimum procurement level for the Moorpark subarea will be 215 MW.” If procurement were permissive for Big Creek/Ventura, the PD would specify that SCE may procure “up to” 290 megawatts, without including a minimum procurement quantity, and Finding of Fact 30 would apply only to the LA Basin.

Another possible source of confusion could be CE Council’s reading of Ordering Paragraph 2 as a permissive authorization. Ordering Paragraph 2 states that “Southern California Edison Company (SCE) is authorized to begin a process to procure between 215 and 290 Megawatts of electric capacity” However, Ordering Paragraph 2 on its face contains a low end of the range, confirming that the value at the low end is the minimum procurement requirement. Ordering Paragraph 2 also must be read in conjunction with Ordering Paragraph 4,

⁶ PD, p. 62.

which specifies that “Southern California Edison Company **shall** begin the procurement process for the capacity referenced in Ordering Paragraphs 1 and 2 immediately.” (Emphasis added.) The use of the mandatory “shall” again demonstrates that SCE is required to procure at least 215 MW in Big Creek/Ventura.

III. CONCLUSION

Based on the foregoing, and in an abundance of caution, the Commission could add language to the PD making it absolutely clear that SCE must procure a minimum amount of new capacity in the Big Creek/Ventura local reliability area. Even without changes, however, the PD clearly establishes a mandatory minimum procurement requirement for Big Creek/Ventura.

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Respectfully submitted,

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