

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)

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON
TRACK III RULES ISSUES**

Pursuant to Judge Gamson's March 21, 2013, Ruling seeking comments on Track III Rules issues, and Judge Gamson's March 28, 2013, email ruling extending the deadline for opening comments to April 26, 2013, the City and County of San Francisco (City) respectfully files these comments. The City believes greater transparency in forward procurement is necessary particularly in the context of rising ratepayer costs. Further, the City believes the Cost Allocation Mechanism (CAM) has not been implemented in a manner that is sufficiently transparent or least cost. Moreover, clear criteria are required to limit application of the CAM to appropriate circumstances. Finally, CAM must be applied in a manner that does not competitively disadvantage Community Choice Aggregators (CCAs).

2. Impacts of transparency on forward procurement

a. Should the Commission require the three major electric IOUs to provide more public transparency into the levels of future procurement for which each has entered into a contract? What confidentiality rules could be changed or removed? In particular how can IOUs provide visibility to the California Independent System Operator (CAISO) regarding their midterm procurement contracts?

The City considers that the forward procurement process requires more transparency. Rates are rising, and as the Little Hoover Commission identified in a 2012 report, ratepayers and policy makers have inadequate information about the likely impact on rates of procurement that has already been approved, let alone additional purchases likely to be made in the future.¹ Rate increases are never welcome, but unexpected rate increases are all the more difficult for residents and businesses to absorb because they are not planned for. Also, the lack of transparency in the forward procurement process makes it more difficult for customer advocates and other potential intervenors to effectively monitor and participate in Commission proceedings to review the reasonableness of IOU proposed purchases and to oppose unduly expensive agreements.

Further, the Commission will allocate to the customers of Community Choice Aggregators (CCAs) and Energy Service Providers (ESPs) capacity and costs from IOU contracts and resources receiving CAM treatment. CCAs and ESPs should be able to accurately assess the capacity and costs that will be assigned to their customers from past purchases. This information may help CCAs and ESPs to also assess likely IOU procurement going forward.

b. How can bids and offers into request for offers (RFOs) be released publically? What other information could be released?

The City favors release of information to stakeholders about bids and offers into request for offers. Utilities comprise a large volume of electricity transactions in the state. Making more

¹ Rewiring California: Integrating Agendas for Energy Reform, Executive Summary at iv-vi, Little Hoover Commission (December 2012) (“Witnesses expressed concerns that in the rush to integrate renewables, the state, specifically, the California Public Utilities Commission (CPUC), was approving power purchase agreements that lock in peak renewable generating costs for the three large investor-owned utilities that provide electricity to approximately three-fourths of all California customers. The power purchase agreements approved by the CPUC remain secret for three years and it will be a few years before the bulk of the already approved renewable projects come online and their costs are built into electricity rates. Until that time, consumers remain in the dark as far as how much the renewable energy contracts will affect their future electricity bills. . . . CPUC Commissioner Michel Florio expressed serious concerns about the value of three renewable energy contracts that were before the commission for approval in May 2012. “I am a strong supporter of California’s RPS goals, but at the same time I believe we can achieve those goals in a far more cost-effective manner,” Commissioner Florio wrote in his dissent to approve the contracts.”)

of the information from the IOU procurement process publicly available will improve market transparency and can also assist consumer advocates and other stakeholders to more effectively participate in Commission proceedings to review IOU proposed procurement. The City sees no reason why this type of information cannot be made available in a sufficiently aggregated basis to avoid any harm to the IOU procurement process.

5. Changes to the Commission’s adopted Cost Allocation Mechanism (CAM) per Senate Bill (SB) 695, SB 790, Decision 11-05-005 and relevant previous decisions

a. Is the CAM currently implemented in a manner that is sufficiently transparent or least cost?

CAM is currently not implemented in a manner that is sufficiently transparent or least cost. The Commission has failed to precisely define the standard for CAM set forth in Section 365.1(c)(2)(A).² This has allowed the IOUs to interpret the statute to support CAM for any resource that provides any degree of reliability.

Section 365.1(c)(2)(A) provides that “in the event that the Commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the Commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation’s distribution service territory” the Commission must afford CAM cost-recovery for those resources. Currently, the Commission has not established clear criteria to distinguish between resources procured by an IOU to meet its bundled load, and resources procured by an IOU to meet system or local reliability needs. Instead, IOUs have claimed that any resource that provides reliability is eligible for CAM, and since most resources provide some level of reliability, CAM treatment has become common. Moreover, in R.12-03-014 the Commission examined system needs before requiring the IOUs to file bundled procurement

² All references are to the California Public Utilities Code unless otherwise noted.

plans. Thus, the Commission has done the reverse of exploring IOU needs for its bundled customers, and then identifying whether additional resources are needed to ensure system and local reliability for all customers. This sequence maximizes the resources IOUs will likely claim are eligible for CAM.

The City submitted a reply brief and comments on the Proposed Decision in Track 1 of this proceeding with its analysis of the legal errors that result from the Commission's failure to clearly delineate the criteria for CAM treatment and minimize the applicability of CAM in order to maximize the ability of CCAs to choose the generation resources used to serve their customer's load. Further, these documents explain the unfairness and adverse impact on retail competition of the Commission's approach. The City will not set forth all its arguments from these prior pleadings again here but refers the judge and the Commission to its prior pleadings for more details. See January 14, 2013, Comments of the City and County of San Francisco on Judge Gamson's Proposed Track 1 Decision; October 12, 2012, Track 1 Reply Brief of the City and County of San Francisco.

b. Should the Commission reform the CAM energy auctions? If so, how?

The City has no comments now but reserves the right to respond to the comments of other parties.

c. How does the capacity allocation interact with other allocated costs such as energy efficiency and demand response funding?

The City has no comments now but reserves the right to respond to the comments of other parties.

d. At what stage in procurement should procurement be deemed CAM eligible, and what criteria should govern Commission decision regarding CAM allocation?

The City supports the commonsense criteria and process proposed by the Marin Energy Authority, the Direct Access Customer Coalition and the Marin Energy Authority (AReM, DACC, MEA) in Track I for identifying the resources eligible for CAM treatment. In a nutshell, AReM/DACC/MEA proposed that the Commission must first determine the resources needed to meet an IOU's bundled load and expected load growth. Resources needed to meet an IOU's bundled customer load would not be eligible for CAM cost recovery. CAM cost recovery would be limited to any additional resources required to meet any residual system and local reliability needs.

e. How should the Commission address flexibility in regards to the CAM? For example, should resources built in one IOU's service territory spread costs across all the California Public Utilities Commission's jurisdictional load-serving entities?

The City does not support having bundled customers or CCA distribution customers of one IOU subject to CAM nonbypassable charges from procurement by another IOU. Moreover, the fact that in Track 1 Southern California Edison (SCE) sought to assess CAM charges on other IOU customers, illustrates that the Commission's interpretation of the criteria necessary for use of CAM are unduly broad. As explained above, the result of this unduly broad interpretation is that CCAs are a risk of having their capacity procurement rendered superfluous by subsequent and completely unpredictable capacity procurement by the IOU that provides distribution service to its customers. Making CCAs vulnerable to purchases by additional IOUs would just exacerbate the problem.

f. Should the CAM rules be differentiated to best account for benefit and cost allocation among community-choice aggregators and electric-service providers, based on their different business models or portfolio of other contracts? If so, how?

As explained above, the current approach by the Commission places CCAs in an untenable situation because they cannot predict the capacity resources that will be allocated to them over time from IOU CAM purchases and energy efficiency expenditures. This problem severely undermines retail competition and needs to be corrected.

Dated April 26, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, KIANA V. DAVIS, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4700.

On April 26, 2013, I served:

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON TRACK III
RULES ISSUES**

by electronic mail on all parties in CPUC Proceeding No. R.12-03-014 on the attached service list. on the attached list.

The following addresses without an email address were served:

- BY UNITED STATES MAIL: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 26, 2013, at San Francisco, California.

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