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)

THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON TRACK III RULES ISSUES

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I. INTRODUCTION

Pursuant to the March 21, 2013 Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues (Ruling) and Administrative Law Judge David Gamson's March 28, 2013 email message revising the date for comments in response to the Ruling, the Division of Ratepayer Advocates (DRA) submits the following response to issues and question posed by the Ruling, issued to develop "bundled procurement rules for jurisdictional investor-owned utilities (IOUs) subject to this Rulemaking."[1]

The following list summarizes DRA's recommendations to the Commission regarding the issues raised in the Ruling:

1. The Commission should not establish a minimum limit for forward procurement in the absence of an adequate record and stakeholder process for developing the limit and allocating costs.

2. To safeguard the investor-owned utilities'(IOUs)[2] ability to engage in competitive procurement, the Commission should *not* order the IOUs to provide more public transparency into the levels of future procurement for which each IOU has entered into a contract. However, the Commission should provide the California Independent System Operator (CAISO) with access to confidential information relating to the contract terms, pricing, and conditions of the IOUs' electric short, medium, and long-term procurement.

3. Bids and offers into requests for offers (RFOs) should *not* be released publicly as the disclosure of bids and offers could negatively affect negotiations between the IOUs and power suppliers to the detriment of ratepayers.

4. The Commission should explicitly allow existing power plants to bid upgrades of those resources into new resource RFOs, providing that the quantity being offered is incremental to the existing rated capacity of the resource.

5. The Commission should not implement proposed amendments to the contract review process that would reduce the amount of oversight of each individual procurement contract.

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[1] Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues, March 21, 2013 (Ruling), p. 1.

[2] As used in DRA's comments, IOUs refers collectively to Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE).

6. The biennial long-term procurement proceeding (LTPP) stakeholder process that results in a needs determination for new system and local area reliability resources and is the current mechanism for implementing the Cost Allocation Mechanism (CAM), is reasonable and conducted in a transparent manner.

7. The Commission should develop a more consistent and standardized reporting template for the Quarterly Compliance Reports (QCR).

8. The Commission should require each IOU to include a Contract Amendment Compliance Report as an appendix to its annual Energy Resource and Recovery Account (ERRA) compliance application.

9. The Commission should require an independent process evaluation of each IOU's Least-Cost Dispatch methods, procedures, documentation, modeling software, and model assumptions once every two years.

II. COMMENTS ON SPECIFIC TRACK III PROCUREMENT RULES AND QUESTIONS

1. Maximum and minimum limits on IOU forward purchasing of energy, capacity, fuel, and hedges.

a. Should the Commission modify the Assembly Bill (AB) 57 bundled procurement guidelines to indicate minimum and maximum limits for which the three IOUs must procure for future years?

DRA recognizes that a minimum level of forward procurement may provide the CAISO with more certainty about the availability of existing resources several years ahead and has the potential to enhance system reliability. However, the Commission should not establish any additional minimum limits[3] for forward procurement in the absence of opportunities for much greater stakeholder involvement than opening and reply comments in response to the Ruling.

In the 2010 LTPP proceeding, the Commission adopted maximum procurement limits for the investor-owned utilities (IOUs) using a ratable rate methodology to determine a future procurement quantity.[4] These limits decrease over a five-year span and effectively set caps on

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[3] The Commission's hedging policies act as a de facto minimum procurement limit, which requires IOUs to procure forward procurement contracts with regulated prices and/or secure financial hedging products such as swaps and options

[4] See D.12-01-033, pp. 7-15.

the IOUs' procurement amounts and associated costs. Establishing an upper boundary for procurement allows the Commission to determine that resulting rates were just and reasonable as § 454.5(d)(2) requires.[5] DRA has no comments on the current maximum procurement level, but looks forward to responding to the opening comments of other parties.

The Scoping Memo does not explain the purpose of establishing a minimum procurement limit,[6] but DRA acknowledges the potential benefits: it could establish a mid-term procurement mechanism between the current year-ahead focus of the RA program and the ten-year forward focus of the LTPP and could mitigate risks associated with early economic retirements of generators.

Adopting a minimum procurement level would require the resolution of complex issues including establishing the appropriate minimum level of procurement, differentiating between different capacity products (system, local, and flexible), ratable rates, and apportionment of costs to all Load Serving Entities (LSEs).[7] For example, the Commission should ensure that bundled customers do not bear a disproportionate share of reliability costs, a situation that would occur if mandatory forward procurement applies only to the IOUs.

The record in this proceeding is inadequate to answer these questions or even evaluate the potential benefits of mandating minimum procurement limits. It is unlikely that one set of opening and reply comments will provide sufficient information to consider the merits and costs of a minimum level of procurement. PG&E filed a motion to move consideration of multi-year

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[5] Public Utilities Code § 454.5(a) requires the IOUs to file procurement plans with the Commission that eliminates the need for after-the-fact reasonableness review. Public Utilities Code § 454.5 (d)(2).

[6] Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, May 17, 2012, (Scoping Memo), p. 13.

[7] Among the issues requiring detailed analysis are: the relationship between various levels of procurement and reliability in future years; cost impact of varying levels of minimum procurement; the relationship between minimum and maximum limits, including whether maximum limits should be adjusted if minimum limits are created; the cost impact on all customers and a reasonable methodology of cost allocation; should limits apply separately to system, local and flexible capacity; what are reasonable ratable rates for each type of capacity; should flexible capacity limits be further differentiated into projected sub-categories of flexibility; compliance periods and enforcement mechanisms; should one formula apply to all LSEs or should variations be allowed.

procurement requirements, which is intertwined with the minimum procurement issue,[8] to R.11-10-023, the resource adequacy rulemaking.[9] PG&E's motion has not yet been addressed.

DRA supports consideration of minimum procurement or multi-year procurement in either proceeding, but recommends that regardless of the proceeding, that the process includes opportunities for much greater stakeholder involvement than opening and reply comments in response to the Ruling. The process should include all necessary stakeholders,[10] the development of a robust record, including workshops, and if necessary, hearings. Failure to initiate a clear process to arrive at an informed decision on multi-year procurement may result in future reliability concerns and unnecessary ratepayer costs if the CASIO implements backstop procurement mechanisms.

Should minimum and maximum limits address energy, system RA, local RA, and/or flexibility?

The current maximum limits do not distinguish between energy, system RA, and local RA. DRA is not aware of any problems with allowing the IOUs to balance these products to best serve their ratepayers within a single maximum cap, but looks forward to reviewing the opening comments of other parties on this issue.

The issue of whether there should be separate categories for minimum procurement should be considered as part of the process for establishing any minimum requirements. However, until the Commission adopts a definition of flexibility capacity, it is premature to develop minimum or maximum limits for flexible capacity.

b. How may the Commission best balance issues regarding departing load in any future requirements for procurement?

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[8] DRA assumes that consideration of minimum and maximum procurement limits contemplates a forward multi-year procurement for minimum procurement similar to the five year ratable rate for maximum limits adopted in D.12-01-033, Conclusions of Law 2 and 4, p. 48.

[9] Motion of Pacific Gas and Electric Company to Move the Track 3 Multi-Year Procurement Requirement Issue to the Resource Adequacy Proceeding, and To Defer Remaining Track 3 Issues, September 20, 2012.

[10] Thus, if the minimum procurement levels are determined in the LTPP proceeding, parties in the RA proceeding should receive notice that would allow them to participate if desired.

DRA does not have comments on this question at this time, but may respond to those of other parties in reply comments.

2. Impacts of transparency on forward procurement

c. 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 CAISO regarding their midterm procurement contracts?

No, the Commission should not require the IOUs to provide more public transparency regarding the levels of future procurement for which each has entered into a contract. Public disclosure of forward procurement would include disclosure to market participants. Instead, DRA suggests the Commission pursue increased transparency by providing aggregated procurement data based on information gathered in the quarterly compliance reports, as recommended in the response to Question 6 (Energy Resource Recovery Act (ERRA) in these comments.

As DRA explained in its November 30, 2012[11] reply comments on LTPP Track III procurement rules, market sensitive information should not be disclosed to market participants, because doing so harms the IOUs' "ability to engage in competitive procurement."[12] "[T]he levels of future procurement for which each [IOU] has entered into a contract" is market sensitive information, which if disclosed to market participants, has the potential to increase ratepayer costs. There are a limited number of power suppliers in California. Those suppliers might be able to negotiate deals that will result in higher prices for ratepayers if armed with each utility's future procurement need before commencing negotiations,

However, in order to allow generators to make economic decisions about continued operation of their plants, there should be increased transparency of aggregated procurement data that is backward looking, based on information gathered in the quarterly compliance reports.

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[11] The Division of Ratepayer Advocates' Reply Comments on Proposed Procurement Rules In Track III of the Long-Term Procurement Plan Proceeding, November 30, 2012, (DRA Procurement Rules Reply Comments) p. 6.

[12] DRA Procurement Rules Reply Comments, p. 6.

Such information would provide market participants with a baseline to predict movements in prices more accurately and thus allow them to make more informed decisions about whether to continue operating or modify existing plants.

The procurement review groups (PRGs) also provide appropriate transparency regarding procurement matters. The PRGs are open to members of the public who are not market participants and who agree to maintain the confidentiality of information discussed and disseminated in the PRGs.[13]

What confidentiality rules could be changed or removed?

DRA does not support changing or removing any existing confidentiality rules in order to increase public transparency, but as explained above and in response to Question 6 (ERRA), recommends using QCR information to provide aggregated information about past procurement.

How can IOUs provide visibility to the CAISO regarding their midterm procurement contracts?

DRA strongly supports providing the CAISO with access to confidential information relating to the contract terms, pricing, and conditions of the IOUs' electric short, medium, and long-term procurement.[14] This information should reduce uncertainty as to which plants are most likely to be around for longer periods of time due to their favorable pricing. The CAISO would also see which plants are becoming uneconomic due to an inability to sign contracts or be shortlisted in RFOs.

The Commission and the CAISO should use this information to work collaboratively to develop a policy regarding intermediate forward procurement that balances the need for reliability with the cost to ratepayers. If the CAISO and the Commission can agree on what constitutes "reasonable costs" for forward procurement, the agencies can jointly conduct a cost-benefit analysis of intermediate procurement mandates.

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[13] D.02-08-071, pp. 24-25.

[14] The CAISO and Commission staffs routinely share confidential data subject to appropriate agreements to protect confidentiality.

a. How can bids and offers into RFOs be released publicly? What other information could be released?

Bids and offers into RFOs should *not* be released publicly as the disclosure of bids and offers could negatively affect negotiations between the IOUs and power suppliers to the detriment of ratepayers. Information about procurement targets in each RFO, the number of bids received, and aggregated megawatts (MWs) which are bid into the auction, are already public. The number of signed contracts from RFOs is made public through the advice letter process. DRA does not support any changes to the disclosure rules of RFOs at this time.

3. Long-term contract solicitation rules

d. Should the Commission adopt a rule that explicitly indicates that existing power plants may bid upgrades or repowers into new-generation RFOs?

The Commission should explicitly allow existing power plants to bid upgrades of those resources into new resource RFOs, providing that the quantity being offered is incremental to the existing rated capacity of the resource. The Commission should only allow repowers to bid into a new resource RFO if "repowering" plants assume the existing resource will be removed and replaced with a new resource at the existing site. Existing power plants should continue to be permitted to offer in capacity for generic (system) resource adequacy purposes, or for local or (if adopted) flexible capacity purposes.

i. How should the existing and upgraded components of the repowers be valued differently in an RFO? How can additions such as energy storage be added to existing facilities and be valued against other types of offers?

While the Commission has considered incremental upgrades in past decisions,[15] issues relating the evaluation of incremental upgrades are not entirely resolved. The outstanding issues include how to evaluate:

- whether the incremental construction would have occurred in the absence of a long term contact;
- the costs of the existing plant if the incremental upgrade depends on how the existing facility is operated;

[15] D.10-07-042, pp. 35-36.

- the risk that the incremental upgrade would disappear if the existing resource is forced into economic retirement; and
- the cost of any necessary transmission upgrades.

Resolving these issues and developing uniform guidelines for evaluating incremental upgrades would take significant time. In the interim, DRA supports providing the IOUs a degree of flexibility to address these evaluation challenges.

How can additions such as energy storage be added to existing facilities and be valued against other types of offers?

Energy storage arising from new investment should be valued as a new resource so that it can be bid into a long-term RFO, whether it is located at an existing facility site, or elsewhere. It should be valued against other capacity offers depending on its ability to meet the key criteria for a capacity resource: generic, local, or (if adopted) flexible capacity. For generic or local reliability needs, the storage capacity should be sufficient to sustain output during at least one peak hour, if not more than one hour.[16] There may be some storage resources that can provide services to address regulation or 10-minute spinning reserve requirements. Such storage resources might not have the sustained energy output needed to meet minimum criteria for generic, local or flexible capacity resource. Storage resources that cannot meet minimum capacity criteria should not be added as a capacity resource, as they do not provide what grid operators require from RA resources. Additional analysis and clear threshold criteria are required to appropriately gauge how storage resources can fit into the procurement alternatives.

ii. Should contracts for repowering or upgrading of facilities be restricted to the same length of contracts as new facilities? If not, please explain why there would be different contract lengths or different terms, and how these differences would be reflected in the valuation of the bids.

DRA supports flexibility in contract terms that would allow full resource participation and give IOUs the ability to determine which resources best adhere to the least-cost best-fit evaluation (LCBF) criteria.

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[16] Capacity may be needed for at least one hour in response to a need created by a transmission outage or other system event.

iii. Is there any information (additional or subtracted) from the RFO or application templates that would need to be changed? Would Energy Division review the RFO differently?

DRA does not have comments to this question at this time, but may respond to other parties in reply comments.

iv. How should cost allocation issues be addressed?

DRA does not have comments to this question at this time, but may respond to other parties in reply comments.

v. How would bilateral negotiations for upgraded or repowered facilities be reviewed?

DRA does not have comments to this question at this time, but may respond to other parties in reply comments.

4. Specification of the rules that, if followed, would allow the IOUs to execute bundled procurement contracts without additional review by the Commission

Public Utilities Code §454.5(a) requires each IOU to file a proposed procurement plan with the Commission that includes the IOUs' procurement practices, strategies, and policies.[17] As part of the biennial LTPP stakeholder process the Commission assesses each utility's procurement plan and determines the amount of generation—if any—each IOU should procure to meet system and local needs. If necessary, each IOU then holds an RFO to solicit any new generation resources. Prior to implementing the procurement contracts executed from these RFOs, an IOU must first file an application or advice letter and obtain Commission approval through a decision or resolution. During this review process, parties like DRA assess the reasonableness of these procurement contracts and whether such contracts comply with the Commission's determination of need and the IOUs' approved and conformed bundled procurement plan. DRA also analyzes whether the proposed contracts are in the best interest of ratepayers and the optimal choice to meet the State's electricity needs.

[17] Public Utilities Code 454.5(b)(1)-(b)(12).

The following proposals (Questions 4a i 1 – 3 and ii of Ruling) appear to reduce Commission oversight through the elimination of the current up-front reasonableness review of each individual procurement contract. Instead, the proposal would automatically approve procurement contracts except in limited circumstances when certain criteria trigger a review. DRA disagrees with this proposal to reduce the amount of oversight over individual procurement contracts in an apparent effort to streamline the contract approval process. Review and assessment of procurement contracts are essential components of the Commission's regulatory oversight of the IOUs. Since Public Utilities Code 454.5 (d)(2) eliminates after-the-fact reasonableness review,[18] it is crucial to maintain the up-front reasonableness review of procurement contracts through advice letters or applications. This up-front reasonableness review affords stakeholders the opportunity to voice any potential concerns with a procurement contract before the Commission approves the contract. In the absence of this review, there is no meaningful opportunity for parties to point out problems with a proposed procurement contract or argue that the contract is not reasonable.

In advocating for a reduction in Commission oversight of procurement contracts, the proposal appears to assume that the IOUs' procurement contracts have, to-date, been per-se reasonable and will continue to be with the exception of those that fall under the circumstances mentioned below. This has not always been true, and some of the procurement contracts—both bilateral and those solicited through an RFO—have not been reasonable for ratepayers or in accordance with the Commission's procurement objectives. Even if the Commission worked with stakeholders in the LTPP proceeding to develop a list of criteria or guidelines that would eliminate the need for additional up-front reasonableness determination of the IOUs' procurement contracts, there is no guarantee that the applicability of these guidelines would be preserved through subsequent LTPPs since each LTPP has dealt with a separate set of procurement issues. The Commission should reject the proposal to eliminate up-front reasonableness review except in limited circumstances and instead retain the current process of approving contracts through advice letter resolutions or application decisions.

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[18] "… Section 454.5, by approving procurement plans, the Commission establishes "up-front standards" for the IOUs' procurement activities and cost recovery. This obviates the need for after-the-fact reasonableness review by the Commission of the resulting utility procurement decisions that are consistent with the approved plans." Scoping memo, p. 11.

e. Please comment on the following potential new or modified rules to ensure competitive bundled procurement transactions:

Even if the Commission were to establish a set of rules and guidelines to determine the upfront reasonableness of each IOU procurement transaction and eliminate additional Commission review, the Commission's proposals are deficient for the reasons discussed below.

i. The IOUs must submit an advice letter or application if they follow their established AB 57 bundled procurement plan authorization, and

1. The contract unit price is a higher than a particular percentage (such as 80%) of the CAISO Capacity Procurement Mechanism or other administratively or market established price

The Commission should avoid setting a price benchmark at an administratively determined price or by using a price benchmark to determine the reasonableness of the bids submitted in an RFO. DRA has witnessed in past solicitations, predominantly for renewable generation, that price benchmarks result in one outcome; most of the bid prices gravitate towards that price benchmark. This was often the case with renewable contracts and the administratively set Market Price Referent (MPR). Whether the contract unit price benchmark is made public or not, the fact that contracts above this benchmark would be required to submit an advice letter or application to the Commission would alert other bidders as to price range that is considered unacceptable and has the potential to drive up bid prices in subsequent RFOs.

2. The RFO did not attract sufficient participants

The proposal does not define the criteria it uses to measure whether an RFO did or did not contain a sufficient number of participants. Furthermore, RFOs conducted in locally constrained areas may be by default, insufficient due to the limited number of participating generators in the geographic region. Consequently, this is not necessarily a problem with the way the RFO was conducted or the participants themselves, but is the natural outcome of conducting an RFO in a resource-constrained or geographically-restricted area where bid participants are limited.

3. The total megawatts (MW) procurement is over a specified level of MW

Although a needs determination is made in the biennial LTPP proceeding, an IOU's procurement need is dynamic, not static. Between LTPP proceedings, the procurement need of each of the IOUs may change to the point where the IOU no longer needs to procure the generation that it was originally authorized to procure or the IOU must procure above this authorized need. For example, in D.07-12-052 the Commission authorized SDG&E to procure 530 MWs of new generation by 2015 to meet its local capacity needs. However, between the 2007 LTPP decision and SDG&E's issuance of its RFO to procure the needed generation in 2009, the amount of generation needed had decreased and the needs determination was reassessed to be in 2018, three years later than initially forecasted.[19] Similarly, in 2010, the Commission reduced PG&E's initial authorized need from the 2007 LTPP decision and denied the Oakley power plant on the grounds that the plant was no longer needed.[20] Both situations illustrate that an IOU's procurement need is dynamic and evolving depending on the IOUs' changing circumstances and needs evaluation.

Thus, it would not make sense to determine the reasonableness of a contract solely on whether the contract meets or exceeds the IOUs' Commission-authorized MW allocation from a particular LTPP cycle.

ii. Any bilateral contract for a facility that did not make the shortlist of an RFO or an offer that has subsequently been negotiating with the utility for longer than six months since making the shortlist of an RFO must seek Commission approval through a tier III advice letter or application.

It is unclear how this proposal would enhance the current - established IOU contract review process and what—if any—improvements this makes. For those reasons DRA does not support this proposal.

f. What rules are needed to determine whether an IOU transaction is reasonable and therefore does not require additional review and Commission action?

The Commission's "Least Cost-Best Fit" (LCBF) methodology and approval of the IOUs' bundled procurement plans should continue to be used as guidelines within the context of

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[19] D.13-03-029, pp. 2 -3.

[20] D.10-07-045.

an advice letter or application to determine whether an IOUs' procurement transaction is reasonable. At this time, DRA does not support making exceptions to these rules that would further reduce the Commission's oversight or the up-front review process of each procurement transaction.

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.

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

The current mechanism for implementing CAM is the biennial LTPP stakeholder process that results in a needs determination for new system and local area reliability resources. The process is open to all parties, and the need for new procurement is based on calculations that reflect a forecast of the entire system's load for all customers, including bundled service, direct access (DA) and community choice aggregation (CCA) customers. Because benefits from system and local reliability flow to all customers, the net capacity costs should be allocated to all customers.

DRA finds that the LCBF methodology is consistent with the Commission's role to ensure reliability while maintaining rates that are just and reasonable.[21] The IOUs must follow LCBF principles in all procurement activities they undertake per Commission rules. LCBF ensures that procurement, and therefore CAM implementation, is least cost under the "best fit" constraints. LCBF provides for the selection of resource alternatives based on the resource's relative cost effectiveness and ability to meet the IOUs' specific portfolio needs. A resource's cost effectiveness is determined relative to common market benchmarks or market value. A resource's portfolio fit can be a qualitative assessment or quantitative measure that represents how well its energy production profile, location, and other operating characteristics meet the needs of the portfolio for a particular product in a given location. LCBF provides for resource alternatives to be selected based on their relative cost effectiveness and their ability to meet the specific needs of IOUs' portfolio. Theoretically, a cost-effective preferred resource that meets the specific needs of the portfolio, but is relatively less cost-effective than a conventional

[21] Public Utilities Code Section 451.

generation resource, would not be selected under LCBF. This outcome would appear to contradict compliance with the loading order.

The Commission, however, must balance adherence to the LCBF principle with its mandate to ensure compliance with the loading order.[22] The Energy Action Plan guides California's energy policies, and places cost-effective energy efficiency (EE) and demand response (DR), followed by renewable sources of power and distributed generation, such as combined heat and power (CHP), at the top of the loading order.[23] To the extent the application of the LCBF principle conflicts with the implementation of the loading order by impeding preferred resources from being able to compete in long-term RFOs, the Commission should revisit the evaluation criteria applied by IOUs in their RFOs in Track III of LTPP or, alternatively, in the next LTPP cycle.

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

DRA has no opening comments in response to this question, but may reply to the comments of other parties.

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

DRA supports a process by which, rather than authorizing the IOUs to procure new system and local area reliability resources on the assumption that preferred resources such as energy efficiency (EE) and demand response (DR) will not materialize, the Commission should assume such preferred resources **will** materialize to meet system and local area need, and direct the IOUs to develop their preferred resource programs in a manner that will produce those results. Reduction of the need for new system and local area reliability resources through EE and DR procurement will minimize CAM procurement.

The Commission should direct the IOUs to work with CAISO to determine a priority-ordered listing of the most electrically beneficial locations for preferred resource deployment

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[22] Public Utilities Code Sections 454.5(b)(9)(C).

[23] *Energy Action Plan II,* p. 2.

(supply or demand side) in a systemic way to maximize these resources' ability to reduce system and local area need. For local capacity requirements (LCR), such a listing should use a reasonable level of electrical aggregation—at the very minimum the LCR sub-area or if possible, a finer electrical-location granularity such as substations. This determination would help to identify all of the best locations "downstream" of certain substations or LCR sub-areas for preferred resource installation so that the IOUs' programs to secure preferred resources would be concentrated on these prime locations.

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

Senate Bill (SB) 695 requires that if the Commission determines that generation resources "**are needed to meet system or local reliability needs for the benefit of all customers** in the electrical corporation's distribution service territory," then:

[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.[24]

SB 790 further reinforced the Commission's mandate to allocate the costs of generation resources, which provide system or local reliability benefits to all customers, in a manner that is fair and equitable to all customers:

> "If the commission authorizes or orders an electrical corporation to obtain generation resources pursuant to subparagraph (A), the commission shall ensure that those resources meet a system or local reliability need in a manner that benefits all customers of the electrical corporation. The commission shall allocate the costs of those generation resources to ratepayers in a manner that is **fair and equitable** to all customers, whether they receive electric service from the

[24] P.U. Code, Section 365.1(c) (2) (A), emphasis added.

electrical corporation, a community choice aggregator, or an electric service provider."[25]

Therefore, the Commission must first determine that the need for new generation resources to meet system and local reliability requirements that benefit all customers. This determination of need should be the stage at which procurement would be deemed CAM eligible and the net capacity costs of generation resources, procured to meet a system or local area reliability need, would be allocated to all customers on a fully non-bypassable basis, in a fair and equitable way which prevents cost shifting between CCA, DA and bundled service customers.

d. 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?

DRA has no opening comments in response to this question, but may reply to the comments of other parties.

e. 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?

DRA has no opening comments in response to this question, but may reply to the comments of other parties.

6. Energy Resource Recovery Account compliance filing requirements

h. Should the Commission require more consistency among the quarterly compliance reports (QCR) for the three major electric IOUs? If so, what areas of the QCRs currently lack consistency?

The Commission should develop a more consistent and standardized reporting template for the Quarterly Compliance Reports (QCR) filed by the IOUs. One particular area where the QCRs lack consistency is in the reporting format for newly signed electricity contracts. Revising the QCRs so that the IOUs report information consistently could significantly streamline procurement reporting and reduce IOU data requests from DRA staff. DRA currently uses these

[25] P.U. Code, Section 365.1 (c) (2) (B), emphasis added.

QCRs to inform its PRG discussions with the three IOUs and to monitor the IOUs' quarterly procurement transactions. There are significant issues with the current reporting format that make it difficult to compare and use the information. If the Commission standardized the QCR reporting template, this could greatly enhance the applicability and usage of the reports. While DRA is aware of a significant effort to develop a procurement database, requiring the IOUs to comply with standardized templates is a simple change that can allow staff to upload information and compare, use and aggregate data without substantial modifications. Should the Commission consider changes to QCRs, DRA's recommends that the Commission:

1. Modify Attachment H of the current Quarterly Compliance Report Template and provide instructions to require the IOUs to use Excel documents to summarize new long-term electricity contracts, or alternatively, the Commission should create a separate section of the "*Summary of Electric Physical and Financial Transactions* section" Excel document in Attachment B of the current Quarterly Compliance Report to instruct IOUs to include summaries of all long-term electricity contracts that have not yet expired.
2. Institute a standardized reporting template that includes the following information:
    - Contract terms that the IOU signed within the quarter, separated by the month and year of the duration of the contract;
    - Buyer and seller of the contract;
    - Resource name;
    - Capacity amount (in MW);
    - Contract price for each month (in kW-month);
    - Date the contract was signed; and
    - An indication of which QCR contracts are being filed for record keeping purposes (e.g. AL-xxxx-E).

An example of the suggested format is appended to these comments as Attachment A.

i. Are any changes to information filed in QCRs necessary to ensure that IOU procurement is compliant with Commission rules?

DRA does not have any comments on this question at this time but reserves the right to address this issue in reply comments.

j. Should the QCR evaluation process be moved from a quarterly evaluation to an annual, semiannual (or other term) process?

One potential benefit from DRA's suggested changes to QCR reporting is that it might lead to fewer data requests to the IOUs and reduce workload constraints on both IOUs and

Commission staff, including DRA. DRA does not have comments regarding revising the term of the QCR process, but may respond to other parties in reply comments.

k. Additional recommended change to the annual ERRA compliance filings.

In addition to the recommended changes to the QCRs, DRA also makes the following recommendation to the IOUs' annual ERRA compliance filings.

i. The Commission should require each IOU to submit a Contract Amendment Compliance Report prepared by an authorized Independent Evaluator as an appendix to the IOU's Energy Resource Recovery Account Annual Compliance Application.

The Commission has previously recognized staff resource constraints in fulfilling the agency's statutory obligation to conduct comprehensive assessments of whether the IOUs comply with their bundled procurement plans.[26] This challenge has not disappeared and ERRA has increased in complexity. DRA participates in each IOU's annual ERRA compliance filing and each IOU's annual ERRA forecast proceedings.

The Commission will be better able to ensure full compliance to the bundled procurement plans by requiring each IOU to include a contract amendment report in its annual ERRA compliance application. The Commission currently permits an IOU to propose amendments to existing contracts in their ERRA annual compliance application.[27] For example, in PG&E's 2012 ERRA compliance application, PG&E is requesting approval of proposed amendments[28] to more than 30 contracts. DRA recommends that an authorized Independent Evaluator, selected by the IOU from the Independent Evaluator Pool already approved in consultation with the Procurement Review Group (PRG) and the Energy Division, should prepare and submit a Contract Amendment Compliance Report. The Contract Amendment Compliance Report should evaluate whether each proposed contract amendment is reasonable and in compliance with

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[26] D.03-12-062 p. 78-79; COL 34 and OP 20. http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/32940.PDF

[27] D.06-12-009 p. 13 OP 3. http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/63024.pdf

[28] A.13-02-023 p.5 http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M057/K742/57742357.PDF

Commission policy and requirements. The Contract Amendment Compliance Report would allow DRA and other interested parties to focus their resources on those contract amendments that merit the most attention, rather than reviewing every single amendment, and other elements of the ERRA compliance application.

These Contract Amendment Compliance Reports should be subject to discovery by DRA and other parties in the IOUs' annual ERRA compliance application proceedings. The dates established by the Commission for each IOU to file its ERRA annual compliance application should not be changed because the development of these reports can occur throughout the compliance year.

ii. The Commission should require an independent process evaluation of each IOU's Least-Cost Dispatch methods, procedures, documentation, software models, and model assumptions once per two years. The consultant's process evaluation report should be submitted to the Commission Staff and DRA, with the first report due on December 1, 2014, and included as an attachment to each IOU's subsequent ERRA compliance filing.

The Commission should require an independent process evaluation of each IOU's Least Cost Dispatch (LCD) methods, procedures, documentation, modeling software, and model assumptions. In IOU daily operations, scheduling and bidding decisions into the CAISO Day-Ahead and Real-Time Markets are made to meet its resource requirements. These decisions must account for many factors, including, for example, forecasts of weather, bundled customer load, resource characteristics and availability, energy prices, changes in system conditions and transmission, and fuel costs. This Least-Cost Dispatch Process Evaluation Report would provide an assessment of internal compliance to established methods and processes, validation of the software models and modeling assumptions designed to ensure generated outputs are consistent with the goal of achieving least cost dispatch, and feedback mechanisms used to drive continuous improvement. The report should also include recommendations for improvement.

This process evaluation is necessary to ensure the IOUs' systems, process, and methods adequately support the goal of Least-Cost Dispatch in daily dispatch decisions. Changes to Least-Cost Dispatch methods, procedures, documentation, and software models will likely be necessary to accommodate flexible resource products in the future, and the report will give the Commission visibility into what changes the IOUs make and whether the changes are consistent with the goal of least cost dispatch. Given the requirement that the IOUs comply with the

Standard of Conduct 4 whereby "the utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner,[29]," it is imperative for the Commission to ensure that resources are dispatched in a least-cost manner. The Commission could hire an evaluator or could require that the IOUs hire independent evaluators. The first Least-Cost Dispatch Process Evaluation should be submitted to the Commission's Energy Division Staff and DRA on December 1, 2014, and then submitted as part of each IOU's ERRA compliance filing the following year.

7. Refinements to the Independent Evaluator (IE) program

l. Please comment on the following proposal:

i. The rules for whom or which entity may qualify to be in the IE pool remain the same.

DRA does not have any comments on this question at this time but reserves the right to address this issue in reply comments.

ii. The IOUs may not limit the IE's interactions with the Commission, specifically in terms of nondisclosure agreements that restriction information sharing.

The Commission has concluded that the "purpose of an IE in RFO solicitations is to ensure a fair, competitive procurement process free of real or perceived conflicts of interest." Any nondisclosure agreements that may limit the IE's information sharing with the Commission would endanger this identified purpose of an IE. Therefore, DRA agrees that the IOUs should not limit the IE's interactions with the Commission, specifically in terms of nondisclosure agreements which may restrict information sharing with the Commission.

iii. IEs are positioned on particular assignments through a random selection process, removing IOU influence over which IE may be assigned

A random selection process would likely resolve any conflict of interest issues, but may not result in the best matching of a specific IEs skill set and expertise with the details of a particular assignment. Therefore, DRA opposes a random selection process of IEs on particular

[29] D.02-12-074, p. 50 http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/22128.pdf

assignments because it may not select the best-fit IE, all factors taken into consideration, for a specific project.

iv. IEs may remain in the selection pool for 10 years (rather than up to 6 years), subject to evaluation every 3 years (maintain current requirement for reassessment)

Decision D.07-12-052 states that an "IE may remain in the IE pool for two years, after which he/she must go through a reevaluation process based upon the inclusion criteria to assure continued compliance." In opening comments on procurement rules, Southern California Edison Company (SCE) proposed extending the two-year time limitation for an IE pool to three years. DRA does not oppose SCE's proposal to allow IEs to remain in the selection pool for up to three years, but certainly opposes allowing IEs to remain in the selection pool for 10 years on the basis that this would impede other potential IE candidates from competing for an IE role. If IEs already in the selection pool are successful in recertifying, there would not be an opportunity for other potentially qualified IE candidates to participate in a Request for Proposals (RFP) for IEs.

III. CONCLUSION

DRA respectfully requests that the Commission adopt the recommendations in these comments.

Respectfully submitted,

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