

**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)

**WOMEN'S ENERGY MATTERS  
COMMENT ON TRACK III DRAFT RULES**

April 26, 2013

Barbara George, Executive Director  
Women's Energy Matters  
P.O. Box 548  
Fairfax CA 94978  
415-755-3147  
wem@igc.org

TABLE OF CONTENTS

1. Maximum and minimum limits on IOU forward purchase capacity, fuel, and hedges..... 1

2. Impacts of transparency on forward procurement..... 2

3. Long-term contract solicitation rules..... 4

4. Specification of the rules that, if followed, would a bundled procurement contracts without additional review by ..... 4

5. Changes to the Commission's adopted Cost Allocation Senate Bill (SB) 695, SB 790, Decision 1105, 05, 00 decisions..... 5

6. Energy Resource Recovery Account compliance filing requirements..... 7

## **WOMEN'S ENERGY MATTERS COMMENT ON TRACK III DRAFT RULES**

Women's Energy Matters (WEM) appreciates this opportunity to comment on the ALJ Ruling Seeking Comment on Track III Draft Rules, dated March 13, 2013. ALJ Gamson's email of March 28, 2013 modified the comment deadlines to April 26 and May 10th. Our comments are interspersed with questions from the ruling, which are listed below.

### **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? If so, should these minimum and maximum limits address energy, system resource adequacy (RA), local RA, and/or flexibility?

Yes. The rules for bundled procurement should limit new fossil-fueled resources to zero, in accordance with D1201033, except for CHP and potentially the repowering of OTC plants. The Commission and the utilities have failed to demonstrate why preferred resources cannot fulfill all the needs that exist, at reasonable prices far into the future. Furthermore, any hoped-for increase of the RPS would require procurement of only preferred resources.

Rather than limit the amounts of preferred resources and storage, as in the Track 1 decision, the Commission should allow the market to demonstrate what can be produced, at what price, and which particular procurement-related "characteristics" each resource or package of resources can fulfill.<sup>1</sup>

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

---

<sup>1</sup> Packages of more than one type of preferred resource should be allowed to bid in any solicitation, for example adding various types of storage to firm up an intermittent resource, and adding a demand response component to an energy efficiency resource.

Load is departing for three primary reasons – price, cleanliness, and local control. Rather than try to foist unnecessary utility costs on departing load (for example, with the CAM, see below), the Commission should develop policies that move the utilities out of the way of others providing what customers want. Alternatively, it could push the utilities more effectively towards revising their business models in these directions.

## **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?

WEM is disappointed that the questions regarding transparency seem to center exclusively on the CAISO system, i.e. transmission. While the CAISO market could also use more transparency, WEM feels that the most urgent need is for the Commission to pry open the utilities' near-absolute secrecy in regard to the distribution system, because almost all of the “distributed” preferred resources are attached to that system rather than transmission. As CAISO reported in the hearings in Track 1, it has *limited to no visibility of distribution*.

D1302015, the decision in Track 1, accepted SCE's proposal to “study” the availability, viability and cost of preferred resources — *rather than provide for developers of actual preferred resources to participate in RFOs and other solicitation processes*. The decision put CAISO and SCE in charge of a process for determining whether and how to use preferred resources in procurement.<sup>2</sup> WEM hoped this was done for expediency, and anticipated revisiting this issue in the “rules” track of this

---

<sup>2</sup> CAISO's first public workshop on the use of EE and DR in procurement was scheduled for April 25, but then postponed until May 13, the first day of hearings in the San Onofre case. WEM has asked CAISO to change the date to one where we could attend, alongwith others involved in the San Onofre investigation who strongly support the use of preferred resources to replace the dead nuke.

proceeding. WEM noted that these two entities were some of the least supportive or knowledgeable about the potential role of preferred resources in procurement.

One way to ensure preventable difficulties and failure of new resources is for regulators to ignore them. This was the problem, for example, with solar water heaters in the 1980s, where a dearth of regulation resulted in a lot of leaky solar panels on peoples' roofs — installed by fly-by-night developers who were no longer around to make the necessary repairs. California's solar water heater market has not yet recovered from that long-ago disaster — leaving us far behind the curve, while several *countries* mandate solar water heaters.<sup>3</sup>

As the use of preferred resources grows, the need for evaluation, measurement and verification in terms useful for procurement becomes increasingly essential. *The Commission needs to put attention into this area.* While independent measurement consultants exist, too few of them are focused on the needs of procurement because California has failed to require it. Instead, the EM&V system in energy efficiency focuses on determining profits for utilities.

California's glut of "system-wide" power that was revealed in R1005006 is due in part to the failure to account for preferred resources in ways that procurement planners need. Without more visibility of the distribution system, it is hard to imagine how this will be possible. Even with the current situation, however, the Commission could force utilities to reveal the location of energy efficiency, demand response and local solar resources.

As part of Track III, the Commission needs to actively address this issue, with workshops and further comments. WEM is concerned that there was no hint in the questions on proposed rules, of all the comments parties submitted in 2012 on the "characteristics" of preferred resources. Rather than reiterate all of them here, we ask for a venue to discuss them as part of the new rules.

## b. How can bids and offers into request for offers (RFOs)

---

<sup>3</sup> As water heaters are the largest energy user in the home, next to furnaces, solar water heaters (either gas or electric) can save both gas and electricity. WEM has calculated that solar water heaters could save 10% of the gas used in California, including gas used for electricity production.

be released publically? What other information could be released?

**3. Long-term contract solicitation rules**

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

Yes.

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?

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.

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?

WEM submitted proposals for changes to RFOs in our comments in Track 1.

iv. How should cost allocation issues be addressed?

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

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

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

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,

2. The RFO did not attract sufficient participants, or

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

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.

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

**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**

WEM is pleased that the Commission is taking another look at the CAM in relation to CCAs and DA.

Forcing departed load to bear the costs of utilities’ choices for decades into the future is unacceptable for several reasons. For one thing, CCAs and DA providers are required to contract and pay for their own resource adequacy. But even more significantly, CCAs are pushing for higher and higher portfolios of preferred resources, up to 100% — while the utilities are using the CAM to support construction of gas power plants. These are incompatible goals.

The CAM calls into question the Commission’s support for preferred resources. We have seen how the utilities’ business model has failed to support more than a pittance of renewables. For it to back utilities’ fossil fuel choices with the CAM runs counter to the Energy Action Plan and statutes mandating the loading order of procurement.

Marin Clean Energy is the one CCA that is currently up and running in Northern California, but Clean Power Sonoma, and Clean Power San Francisco are close to launch, and other cities and counties in all utility territories are in the process of forming CCAs. In SCE territory, Cerritos has also become a CCA.

In Track 1, SCE sought to use protection of the creditworthiness of the utility as a reason to get CAM treatment for any large power resources it chose to procure. Essentially, the utility's qualms related to its creditworthiness were used as a blunt instrument for the IOUs to use to attack the viability, attractiveness — and ultimately the credit-worthiness, of CCAs (and DA).

This may seem to have made sense in the atmosphere of the energy crisis at the turn of the century, where IOUs were portrayed as victims (though it turned out later that at least one IOU was in fact a perpetrator). But even more today than in 2000, the credit-worthiness of IOUs is an internal problem, having mostly to do with their clinging to outdated concepts — systems built on central station models — and technology that works with those concepts.<sup>4</sup>

*Tragically, the CAM, which primarily supports power plant construction, is serving to **prevent** the progress that utilities need to make towards adjusting their business model.*

- a. Is the CAM currently implemented in a manner that is sufficiently transparent or least cost?
- b. Should the Commission reform the CAM energy auctions? If so, how?
- c. How does the capacity allocation interact with other allocated costs such as energy efficiency and demand response funding?
- d. At what stage in procurement should procurement be deemed CAM eligible, and what criteria should govern Commission decision regarding CAM allocation?

Never.

- 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

---

<sup>4</sup> For the moment, utilities are insulated from some of the worst effects of those choices by the abnormally low price of natural gas due to fracking. But this will soon pass — prices are already rising, in anticipation of gas exports, and they are likely to rise much more as the environmental backlash against the destruction of water supplies by fracking gains strength in state legislatures. All three IOUs' reliance on aging, decrepit, and catastrophically risky nuclear power plants could completely degrade their balance sheets any day.



all the California Public Utilities Commission's jurisdictional load-serving entities?

Let's force CCAs and DA to pay for resources in Antarctica. Might come in handy someday.

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?

WEM opposes efforts to split CCAs and DAs on the issue of the CAM.

**6. Energy Resource Recovery Account compliance filing requirements**

a. 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?

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

Dated: April 26, 2013

Respectfully Submitted,

/s/ Barbara George

---

Barbara George, Executive Director  
Women's Energy Matters  
P.O. Box 548  
Fairfax CA 94978  
415-755-3147  
wem@igc.org