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 TRACK III RULES ISSUES

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The Independent Energy Producers Association (IEP) submits the following reply comments on the Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues, issued March 21, 2013. The Ruling sets forth specific issues for consideration in Track III related to developing bundled procurement rules for jurisdictional investor-owned utilities (IOUs). In these reply comments, IEP responds to comments on a narrow set of issues and makes related recommendations.

I. LONG-TERM CONTRACT SOLICITATION RULES

The Ruling asked, "Should the Commission adopt a rule that explicitly indicates that existing power plants may bid upgrades or repowers into new-generation RFOs?" and parties responded with a variety of answers. Collectively, these responses indicate a need for greater clarity from the Commission about (a) how existing generators are to be treated in need determinations, and (b) depending on the answer, how to define "repowers."

A. Treatment of Upgrades or Repowers in Need Determinations

In response to the Ruling's question, Southern California Edison Company (SCE) commented, "The Commission should only allow capacity (whether developed at an existing power plant site or at a new site) that is *incremental* to what was assumed in the underlying 'need determination' analysis to compete in 'new generation' RFOs . . . ."[1] IEP agrees with this basic principle, but notes that this observation begs the question of whether the Commission is conducting its underlying need determination effectively.

Currently, in the absence of a formal notice of retirement, the Commission's status quo long-term need determination methodology assumes that existing resources will continue to be available to meet capacity needs over the planning horizon (typically 10 years) irrespective of whether that resource capacity has any commercial commitment to be operating or available for operation throughout the entire planning horizon. For example, if the Commission forecasts a need for 100 MW of capacity in 10 years and the system currently has 90 MW of existing capacity, the analysis assumes that all 90 MW of existing capacity (minus retirements) will be available to meet the forecasted need. To meet the net need of 10 MW, the Commission then authorizes the utilities to procure 10 MW of "new" capacity and prohibits existing capacity from bidding into the RFO for "new" resources. Long-term procurement premised on this approach creates a risk of under-procurement if, over the course of the 10-year planning horizon, the existing resources assumed to be available are not available due to premature retirement or relocation.

The former approach to long-term procurement may have originated at a time when California's generation fleet was dominated by old plants built in the 1950s and 1960s. The composition of the generation fleet has changed over the last decade, and newer more efficient units have replaced many of the old plants. As the 2012 experience with the Sutter plant demonstrated, the problem some of these newer plants face is finding a commercial opportunity to earn the revenues required to justify continued operation. The components of the

[1] SCE's Comments, p. 6 (emphasis in original).

newer plants are also more modular and transportable, so the current assumption that "steel in the ground" will stay in the ground, *i.e.,* in California, may not hold true if commercial opportunities are not available.

On the other hand, an alternative need determination methodology would not assume that existing resource capacity would be available to meet need over the planning horizon unless that capacity is commercially committed to be available. Under this alternative approach, assuming the same forecasted need of 100 MW in the illustration discussed above, if the system currently has 90 MW of existing capacity but only 80 MW are under contract through the planning horizon, then only the 80 MW are assumed to be available. The need will be determined to be 20 MW, and uncommitted existing, incremental, repowered, and new resources would all be eligible to bid into the RFO to meet the forecasted 20 MW need.

This alternative model more appropriately aligns commercial realities with need, and notably provides all resources a fair opportunity to compete to serve load in a competition in which the vintage of the resource does not matter as much as the unit's operational characteristics, price, and ability to meet various state policy goals and objectives that drive procurement decisions. This alternative procurement approach helps insure against the risk of over- and under-procurement, because it aligns the assumption of available capacity in the future to actual commercial commitments. This emphasis on commercial commitments is particularly valuable today, in the absence of any formal market or procurement mechanism by which existing resources may obtain multi-year forward commitments, which are often necessary to facilitate their continued operation in light of the need for plant upgrades, compliance with environmental regulations, improved flexibility, and other modifications required to meet the needs of a changing market reflecting a changing California.

The distinctions between existing resources, incremental resources, repowered resources, and new resources arise only under the status quo approach to long-term procurement. However, in this context, little agreement exists among parties about how these resources should be defined and treated in long-term procurement. SCE argues that only "incremental" capacity should be allowed to participate in "new generation RFOs." If the Local Capacity Requirements analysis identified a unit as being shut-down at the end of the planning horizon, then the entire capacity of a new unit on the site would be considered a "repower" and eligible to bid in a new generation RFO.[2] The Division of Ratepayer Advocates (DRA) apparently takes the same position.[3] On the other hand, Pacific Gas and Electric Company (PG&E) seems to indicate that "upgrades" should be limited to short-term or intermediate-term solicitations and should be excluded from long-term solicitations unless the resource is a repower.[4] PG&E proceeds to define repowers as investments that "extend the useful life of a facility to match that of a new resource."[5]

B. Need for Common Definition of Repower

As noted above, it is only in the context of implementing the current, status quo approach to long-term procurement that the distinction between existing resources, incremental resources, repowered resources, and new resources arises. If the Commission continues to employ the status quo approach, then the parties' initial comments highlight the need to develop a clear definition of "repower" as distinct from "upgrade" or "incremental" additions.

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[2] SCE's Comments, pp. 6-7.
[3] DRA's Comments, p. 7.
[4] PG&E's Comments, p. 9.
[5] PG&E's Comments, p. 9.

SCE defines "incremental" as the MW that are incremental to what was assumed in the underlying need determination.[6] DRA defines "incremental" capacity as that which is incremental to the existing rated capacity of the resource.[7]

Regarding the definition of repowers, PG&E considers a repowered facility as being fundamentally different from an existing resource that has been retrofitted or upgraded. PG&E defines a repower as "in essence, a new facility on a site where a different facility had previously been located… where *substantial replacement* of old equipment has occurred, such that the facility's performance and economic life are *similar to* that of a new facility of like technology."[8] DRA defines repowers as arising when "the existing resource will be removed and replaced with a new resource at the existing site."[9] While AES Southland notes that the definition of "repower" is somewhat ambiguous, it distinguishes between repowers and new generation at existing sites.[10]

Parties' comments indicate the need to bring some clarity about what the types of resources are eligible to bid in long-term RFOs and clearer definitions of "repower," "incremental," and "upgrades." The Commission should clarify the rules and definitions in the current proceeding. To determine eligibility for RFOs limited to new capacity or repowers (and perhaps incremental additions), the Commission must develop suitable and commercially sensible definitions for resources that fall into these categories as an initial step.

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[6] SCE's Comments, p. 6.
[7] DRA's Comments, p. 7.
[8] PG&E's Comments, p. 9 (emphasis added.)
[9] DRA's Comments, p. 7.
[10] AES Southland's Comments, p. 4.

II. <u>CONCLUSION</u>

IEP appreciates the opportunity to comment on Track III Rules Issues and respectfully urges the Commission to consider IEP's comments as it evaluates the issues of Track III.

Respectfully submitted this 10th day of May, 2013 at San Francisco, California

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