

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 UTILITY REFORM NETWORK
ON TRACK III RULES ISSUES



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ON TRACK III RULES ISSUES**

Pursuant to the *Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues* dated March 21, 2013 (Ruling), The Utility Reform Network (TURN) offers the following reply comments on issues 1a, 2a, 3a and 5.

Issue 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?

Several parties took the invitation of Question 1.a to comment on “minimum and maximum limits” for IOU procurement in “future years” to promote multi-year forward procurement policies in general and a CAISO-administered centralized capacity market in particular.¹ TURN will not comment on these recommendations at this time. But in its opening comments, TURN stated the Commission could not implement even the modest rules apparently envisioned by this question based solely on opening and reply comments, and that a far more comprehensive process would be required.² This caution applies all the more to Commission adoption of a broader multi-year forward procurement requirement, even as an aspirational goal. TURN further cautions the Commission that PG&E’s argument that there is a “growing consensus that one-year forward RA procurement requirement applicable to all load-

¹ See April 26 comments of PG&E (p. 3), NRG Energy (pp. 1-4), Calpine (pp. 4-7) and the Western Power Trading Forum (pp. 2). Of these parties, only PG&E did not make a specific appeal for a centralized capacity market in its comments.

² TURN April 26 comments, p. 1.

serving entities (“LSEs”) should be extended to a mutli-year timeframe” is not a fact in evidence in this, or any other, docket.³ TURN’s comments in response to Question 5 provides additional discussion of this topic.

Issue 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?

TURN noted in its opening comments that it believed the CAISO already has the ability to get access to IOU confidential forward procurement data.⁴ Each IOU agrees.⁵ However, TURN notes that the CAISO’s ability to review such data does not mean that it will review such data, much less consider the data and their implications in making policy recommendations. To the extent that the CAISO does not avail itself of this important data, the Commission should play a central role in educating the market and policy-makers about the IOUs’ forward procurement. TURN believes Commission staff can play such a role now by aggregating IOUs’ data into a “big picture” view that could be available in full detail to the CAISO and other non-market participating parties and in still-significant detail to other parties and the public in general. If changes to Commission rules and policies are necessary to facilitate such educational efforts, TURN generally expects it would support such changes.

A lack of basic public knowledge about the IOUs’ forward procurement is evident in some of the generators’ statements. For example, NRG suggested a minimum

³ PG&E April 26 comments, p. 3.

⁴ TURN April 26 comments, p. 4.

⁵ See April 26 comments of PG&E (p. 6), SCE (p. 5) and SDG&E (pp. 3-4).

procurement level for bundled system RA needs of 70 percent of year five needs.⁶ Calpine suggested that 75 percent of capacity be under five-year contracts.⁷ WPTF says more generally that “a properly designed capacity market *is necessary* to retain needed capacity resources”.⁸

TURN believes that an aggregation of the IOUs’ forward procurement data would show that sufficient capacity has already been procured to meet or exceed the forward benchmarks proposed by NRG and Calpine, particularly in off-peak months.⁹ These same data would also cast doubt on WPTF’s assertion that some new mechanism is actually “necessary” to keep needed resources viable. As TURN noted in its opening comments, release of the IOUs’ aggregate procurement data would refute the widespread myth that the Commission has only a two-part capacity procurement mechanism.¹⁰

Calpine observes that “even if” the IOUs have made substantial forward commitments “IOU contracting alone does not assure the availability of such contracted to the CAISO”.¹¹ Calpine’s comment may be technically true regarding the provision of capacity to the CAISO under RA contracts. However, given their relationship with the state of California, the Commission and their customers, the IOUs are unlikely to withhold any capacity that they own or control from the CAISO in times of system need. Further, the IOUs’ forward procurement provides the financial support that should ensure many existing resources can continue to operate for at least several more years.

⁶ NRG April 26 comments, p.3 .

⁷ Calpine April 26 comments, p. 5.

⁸ WPTF April 26 comments, p. 2; emphasis added.

⁹ Calpine allows for this possibility in its footnote 8, which acknowledges that Utility-Owed Generation and existing IOU long-term contracts play a role in “long-term capacity procurement”.

¹⁰ TURN April 26 comments, p. 3.

¹¹ Calpine April 26 comments, p. 8.

Issue 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?

TURN wishes to clarify the following statement from its opening comments -- “[t]he Commission should facilitate the IOU competitive contracting for upgrades or repowers of existing power plants”.¹² In making this statement, TURN intended that only the portion of such capacity incremental to the capacity of the repowered or upgraded unit assumed in the Commission’s need determination should be considered as “new generation” for purposes of the Commission’s procurement policies.

Issue 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

Despite the Commission’s recent rejection of their positions in D.13-02-015, the Alliance for Retail Energy Markets (AREM) and the Direct Access Customer Coalition (DACC) spent considerable effort repeating the same basic claims about various customers’ responsibility (or lack thereof) for funding the new generation needed to replace existing generation and/or meet growing loads.¹³ AREM/DACC seem intent on requiring bundled customers to bear responsibility for funding all new generation to serve California loads and to excuse unbundled customers from any such responsibility. The Commission should again reject AREM/DACC’s pleas.

For example, AREM/DACC state that the IOUs’ Bundled Procurement Plans (BPPs) should “include minimum limits for procurement to meet the IOUs’ bundled load long term, including procurement of new generation needed to meet bundled peak load growth, to replace expiring power contracts or retiring power plants, and to fulfill

¹² TURN April 26, comments, p. 5.

¹³ AREM/DACC April 26 comments.

associated flexibility requirements”.¹⁴ TURN appreciates that in mentioning “expiring power contracts” and “retiring power plants,” AReM/DACC acknowledge basic facts regarding IOU procurement that other parties ignore – that the IOUs have already engaged in substantial forward procurement for future years. However, AReM/DACC provide no reasons why explicit requirements for such hedging should be imposed on the IOUs for the “long term” – particularly when AReM/DACC members do not appear to be volunteering to meet such requirements themselves.

AReM/DACC’s desire to avoid long-term commitments is underscored by the comments of the Marin Energy Authority (MEA). The Commission should recall that MEA co-sponsored testimony with AReM and DACC in Phase 1 of this case that proposed similar policies to those offered in AReM/DACC’s comments. However, MEA filed its own comments in this phase, including an attachment showing that MEA has and will make long-term commitments to capacity needed for RA purposes.¹⁵ MEA also noted that CCAs are “similar to IOUs and municipal utilities” in that “CCAs procure on a long-term basis, both in long-term procurement planning and in long-term contracting”.¹⁶ Noticeably absent from this list of parties engaged in making long-term commitments are AReM and DACC.

Finally, AReM/DACC mis-construe the Commission’s “long-standing principle of cost causation” in rate design.¹⁷ In designing rates, the Commission assumes all customer groups’ loads contribute equally to the peak, and thus assigns the peak-generation-related costs to all customer groups equally. Contrary to AReM/DACC’s assertions, the Commission’s cost causation principles support the principle that all customers

¹⁴ *Id.*, p. 6.

¹⁵ MEA April 26 comments, Attachment A: MEA Integrated Resource Plan, pp. 14-15 (including Table 3) and 18.

¹⁶ *Id.*, p. 18. In citing these arguments, TURN is not agreeing with MEA’s position on the CAM.

¹⁷ AReM April 26 comments, pp. 5-6.

contribute to the cost of new generation needed to provide system reliability, the key goal of the CAM process.

TURN appreciates the opportunity provide these comments.

Respectfully submitted,

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