

**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)

AES SOUTHLAND, LLC'S REPLY COMMENTS ON TRACK III RULES ISSUES

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In response to the March 21, 2013 Administrative Law Judge’s Ruling Seeking Comments on Track III Rules Issues (“Ruling”), AES Southland, LLC (“AES Southland”) submits the following reply comments on the issues raised in the Ruling.

I. DISCUSSION

The Ruling sets forth a number of specific questions for parties in seven different subject areas. AES Southland addresses parties’ opening comments with regard to the following questions.

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

In its initial comments, the Sierra Club argues that the Commission should “establish maximum limits for the purchase of fossil fuel resources,” and goes on to advocate in favor of setting minimum procurement obligations for preferred resources and energy storage. (Sierra Club Comments at pp. 1-2.) Mandating the use of certain resources, either by imposing maximum limits for natural gas generation, or minimum requirements for preferred resources and energy storage, prematurely picks winners and losers while ignoring the relative cost and benefits of the different technologies. Rather

than mandating the types of resources that should be procured, the Commission should instead, as AES Southland, Western Power Trading Forum, Independent Energy Producers, and others advocated in opening comments, develop a robust set of evaluation metrics that can be used to quantify the costs and benefits of a variety of solutions that are able to meet a specified need, and allow utilities and the Commission to determine which resources are indeed least cost, best fit (“LCBF”).

As AES Southland explained in its opening comments, if bids for various resources are evaluated using a robust set of criteria that include total cost, operational characteristics and environmental impacts, the resulting procurement decisions will appropriately balance the overall objectives of system reliability, emissions reductions and reasonable rates. These evaluation metrics should include: (1) performance characteristics, including flexibility and efficiency; (2) transmission impacts, including effectiveness factors for eliminating transmission constraints and deliverability or upgrade costs for new generation; (3) emissions costs, including costs associated with greenhouse gas emissions compliance; (4) project viability, including permitting and construction risk; and, (5) environmental costs and attributes. These metrics would allow the Commission and the utility to determine when preferred resources, or storage, might be a better option for meeting a particular need, and, conversely, when natural gas fired resources might be the appropriate solution.

2. Effectiveness at Meeting Local Reliability Requirements

The Track I procurement authorization is focused on the resources that are needed in order to satisfy Local Capacity Requirements (“LCR”). The California Independent System Operator (“CAISO”) determines LCR needs by evaluating the transmission and distribution system in multiple Local Reliability Areas (“LRA”) under high load conditions and while assuming selected transmission and/or generation outages. The LCR is based on the resources that are needed in order to mitigate the transmission and/or distribution system overloads under these high load and contingency conditions. With

this in mind and as noted in AES Southland’s opening comments, one of the key metrics for evaluating procurement to meet the LCR must be a resource’s effectiveness at mitigating the transmission overloads that drive the LCR need in the first place. For example, the CAISO’s own studies show that only 2,400 megawatts are needed to satisfy the expected LCR need if resources are at the most effective locations in the Western Los Angeles Basin (“Western LA Basin”). However, if the resources are located at less effective locations within the Western LA Basin, the CAISO study indicated that up to 3,800 megawatts (are needed to satisfy the same local reliability criteria. It should be noted that the Commission based its Track I procurement authorization on the bottom end of the range, which assumes the new resources are sited at the most effective locations.

If the bid evaluation criteria do not properly consider effectiveness factors for different resources within a local reliability area, the study results indicate that an additional two or three large power plants may be needed just to satisfy the same local reliability requirement. Given the assumptions made in the Commission’s own procurement authorization, it is absolutely essential that the Commission and Southern California Edison use a bid evaluation process that accurately factors in a resource’s effectiveness at mitigating the applicable transmission overloads. Otherwise, there is a significant risk that new resources are procured at less effective locations which would result in a higher overall cost to satisfy the LCR need. This could be true even if the individual cost of the new resources appeared to be lower than other more effective resources because more total capacity would need to be procured.

The CAISO, in its annual resource adequacy studies, provides the necessary effectiveness data for the Commission and the utilities to easily include effectiveness factors when comparing bids. In its recent decision authorizing procurement for local capacity requirements in the LA Basin, the Commission noted that: “SCE proposes to use existing RA Program rules to assess the effectiveness of proposed generation solutions

for meeting LCR need.” The Commission went on to state that it “will adopt SCE’s proposal.” (D.13-02-015 at 75.)

To avoid incurring higher costs than necessary to satisfy Track I LCR needs, a bid adjustment should be included in the evaluation and ranking process to reflect each resource’s capability of mitigating the transmission overloads that drive the LCR need.

3. 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?

AES Southland concurs with the comments offered by Southern California Edison (“SCE”), Pacific Gas and Electric (“PG&E”), and the Division of Rate Payer Advocates (“DRA”) that the current confidentiality rules appropriately balance public transparency with the need to maintain confidentiality for “market-sensitive information.” The Commission spent considerable time and effort determining this appropriate balance in Rulemaking 05-06-040, resulting in Decision 06-06-066, D.07-05-022, and D.08-04-023. There is no reason to revisit that well-litigated issue now, and imposing greater transparency runs the risk that market sensitive information will be released, resulting in adverse effects on the electricity market and increasing rates as a result.

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

AES Southland concurs with SCE, PG&E, the DRA and others that the release of bidding and pricing information should not be required because it is not in the best interest of the ratepayers, and is likely to result in higher procurement costs and rate increases. Bidders have requested that bids and offers remain confidential, and as SCE explains in some detail, the failure to maintain the confidentiality of bids and offers will inhibit competitive bidding and result in increased prices for ratepayers. As with other confidentiality provisions, there is no reason for the Commission to reexamine the

balance it struck in R.05-06-040 with regard to the confidentiality of bids and offers, or any other market-sensitive information.

4. 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?

AES Southland’s Opening Comments explained that upgrades and repowers should be permitted to bid into new-generation RFOs, as long as those upgrades or repowers would provide significant incremental capacity to the CAISO Balancing Authority Area, either by expanding the generation capacity at a generation facility, extending the useful life of a generation facility as a result of significant capital investment, or replacing or repowering existing generation that is assumed to retire in the CAISO studies. SCE provides similar eligibility criteria, suggesting that only capacity, whether the result of an upgrade of an existing facility or a development that is incremental to what is assumed in the underlying “need determination” analysis should be allowed to compete in new-generation RFOs. Though the standards proposed by AES Southland and SCE vary slightly, the principal is the same—to bid into new-generation RFOs, the capacity must be additional incremental capacity or generation that is replacing an existing resource that is assumed to be retired in the “needs determination.”

PG&E distinguishes repowers from upgrades—defining repowers as “a new facility on a site where a different facility had previously been located.” AES Southland’s Opening Comments specifically excluded new generation at existing sites from the definition of “repowers,” contending that in fact such generation should be considered “new,” not “repowered” generation, at least in the context of eligibility to participate in new generation RFOs. Though AES Southland’s and PG&E’s definitions may vary, AES Southland notes that the result is the same—new construction at existing sites should be permitted to participate in new generation RFOs, regardless of whether

that generation is characterized as a repower under PG&E's definition or new generation under AES Southland's definition.

PG&E goes on to propose that upgrades not be permitted to participate in new-generation RFOs, contending that upgrades to existing facilities do not provide the same benefits as a new or repowered resource. (PG&E Comments at p. 9.) PG&E argues that “[i]n most cases, upgrades will not extend the useful economic life of a facility to match what is offered by a new or repowered resource.” (*Id.*) In contrast, AES Southland proposed that upgrades be permitted to bid into new-generation RFOs as long as the upgrades resulted in an extended useful life. Consistent with prior comments, as long as the bid evaluation metrics are adequately reflective of market needs, costs and system impacts, the selected projects will be least cost, best fit, assuming other eligibility criteria are met. AES Southland also proposed that upgrades be restricted to the same length contracts as other generation bidding into a new-generation RFO. AES Southland proposes that this is preferable to simply excluding upgrades wholesale, as PG&E suggests. If an upgrade extends the useful life of a facility sufficiently that it can provide the contract term requested in the RFO, then it should be permitted to bid into the new-generation RFO.

PG&E also notes that upgrades are unlikely to match the efficiency or reduced emissions offered by a new or repowered resource. That may be true. But if the Commission adopts a robust set of evaluation criteria, as AES Southland recommends, issues such as efficiency and emissions would be evaluated along with the likely lower price for an upgraded versus a new facility. An upgraded facility might not provide the best solution, for the reasons suggested by PG&E, but it should be permitted to bid into a new-generation RFO, and should be evaluated along with other options.

PG&E also notes that allowing upgrades that created incremental generation at existing sites to bid into new-generation RFOs would create issues as “it is impractical to separate a contractual agreement for incremental, retrofitted capacity from the rest of the

existing plant.” (*Id.* at p. 10.) AES Southland agrees, but only for upgrades that involve additional incremental capacity at existing plants. To the extent that the upgrades provide for extended useful life, or extended useful life and additional capacity during that useful life and that capacity was otherwise assumed to be retired and not included in the current long term planning assumptions, it would be possible to enter into an agreement for the period covered by the extended useful life. AES Southland therefore believes upgrades that significantly the extend useful life of existing facilities should be permitted to bid into new-generation RFOs, to the extent that those units can supply the contract for the length of time required in the RFO and provided the existing capacity was not included in the relevant long term planning assumptions.

II. RESOURCE ADEQUACY PROCUREMENT

A number of parties, including NRG Energy, contend that the Commission should establish a multi-year RA capacity procurement mechanism to procure capacity from existing resources. AES Southland agrees with the recommendation, but suggests that the Commission explore the creation of a multi-year RA capacity procurement mechanism in the current RA proceeding, R.11-10-023, or in a successor RA proceeding.

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