**BEFORE THE PUBLIC UTILITIES COMMISSION**

**OF THE STATE OF CALIFORNIA**

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| Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans. | Rulemaking 12-03-014<br>Filed March 22, 2012 |

# REPLY COMMENTS OF TAS ENERGY ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON TRACK III RULES ISSUES

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May 10, 2013

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# REPLY COMMENTS OF TAS ENERGY ON ADMINISTRATIVE LAW JUDG'S RULING SEEKING COMMENT ON TRACK III RULES ISSUES

TAS Energy hereby submits these reply comments in accordance with the direction provided in the, *Administrative Law Judge's Ruling Seeking Comments on Track III Rules Issues,* issued by Administrative Law Judge David M. Gamson on March 21, 2013 ("ALJ's Ruling").

TAS Energy appreciates the opportunity to offer reply comments. In our opening comments we made clear our assertion that incremental capacity added to existing assets through retrofits (including the addition of energy storage) ought to be evaluated as new generation, and qualified for new generation RFOs as doing so would ensure the most cost effective resources are procured for the ratepayers. In these reply comments we would like to respond to the suggestion that there be limitations placed on such retrofits, that the incremental additions be economically evaluated in concert with the already operating asset rather than simply the incremental cost of the retrofit, and finally encourage the Commission to formally publish the definition of energy storage.

PG&E stated:

"Existing facilities, including upgrades to existing facilities, should only be allowed to compete in short-term or intermediate-term RFOs. This separation will allow utilities to meet the RFO needs in a cost-effective manner for customers without the risk of over-procurement. The

same principle should apply to energy storage that is incorporated into repowers and upgrades of existing facilities. If the storage technology results in a facility with a remaining useful life equivalent to a new resource, it should be eligible to compete through an LTRFO."

These comments stipulate that retrofits to existing assets would only be allowed to bid into a new generation RFO if it extended the life of the existing asset *equal to a new asset.* This is unnecessary as operation ought only be limited to the contract needs stipulated in the RFO itself, decided by the specific RFO, not limited under this proceeding. The terms and needs of the RFO will naturally ensure that only those resources that can qualify for the contract term are evaluated while also ensuring all cost effective and able resources are submitted.

Regarding the financing of such retrofits, TAS Energy respectfully disagrees with the Independent Energy Producers limitation comments:

"If the proposal is to disaggregate the cost basis of unit bids (e.g., incremental costs associated with expansions versus the cost of the generating facility as an entire unit), that approach is wholly inappropriate in a competitive, market-based system and would signal a significant change in Commission procurement rules, practices, and outcomes. This proposal would require a much broader discussion than is afforded here." (IEP Comments, p. 4).

Plant owners currently under contract with Utilities must have the opportunity to secure a separate overlay contract specific to the incremental megawatts added to the facility through the retrofit. This is of absolute importance to allow retrofits of existing assets to bid into an RFO. In fact this is the number one regulatory barrier for generator sited storage, and turbine inlet chilling retrofits to existing assets as reported by existing resource owners. Without a separate overlay contract for the incremental investment to increase the unit's capacity, independent power producers will not invest or bid into these RFOs, and retrofits will not occur. The simple risk of reopening an existing contract eliminates any consideration of retrofits. It is imperative that contracts for the incremental megawatts are offered under an RFO, and that the RFO makes that explicitly clear. Furthermore, for the rate payer, it only makes sense that the costs incurred by the asset owner for the incremental capacity be considered, and that such cost be directly able to

compete against the cost of generation from an entirely new unit. This is the best market approach to procuring the most cost effective generation. In respectfully disagreeing with the IEPA, TAS Energy thus enthusiastically agrees with the comments of SD&E:

" … If a bid merely represents an upgrade to an existing project, the evaluation must recognize that only the upgrade or increased output may qualify as to meeting a new generation need, unless the existing facility was assumed to be retired as part of the need determination. If not, the remaining portion of the plant may also have value to meet other needs such as meeting local or system resource adequacy and should be evaluated accordingly." (pp. 8-9).

Finally, in response to noted confusion by a number of parties regarding the following terms; repower, upgrade, addition, and energy storage, TAS Energy appreciates this opportunity to urge the Commission to formally publish or assert that the active definition of the California Public Utility Commission for "energy storage" is the legislative definition as passed in AB2514. So as to ensure Utilities and bidders are on the same page with the Commission and the Legislature on resources eligible to qualify for storage procurement needs, this formal confirmation is requested of the Commission. Feedback from resource owners has indicated that a formal statement by the Commission as to the definition of energy storage would be of great value.

**CONCLUSION.**

TAS Energy appreciates the opportunity to contribute to this discussion and offer the above reply comments.

Respectfully submitted,

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TAS Energy

May 10, 2013