

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)

**NOTICE OF EX PARTE COMMUNICATION**

Pursuant to Rules 8.2(c), 8.3, and 8.5 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) gives notice of the following oral and written *ex parte* communications. The first one, with Commissioner Florio's advisor Marcelo Poirier occurred on May 15, 2013 at approximately 2 p.m. and lasted approximately one hour. The second one, with Commissioner Ferron's advisor Sara Kamins, occurred on May 15, 2013 at approximately 3 p.m. and lasted approximately 30 minutes. DRA initiated the communications, which took place in the Commission's San Francisco office at 505 Van Ness Avenue.

Attending both meetings on behalf of DRA were Cheryl Cox, Nika Rogers, Alan Wecker and Diana Lee. At both meetings, DRA discussed some of its recommendations in response to the March 21, 2013 Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues. DRA explained that:

- it supports a minimum limit on forward procurement only if the numerous issues related to such a requirement were adequately considered, and only if the forward procurement requirement applied to all load-serving entities (LSEs);
- incremental upgrades can already bid into Requests for Offers held by utilities, but outstanding issues about how to best value such upgrades remain unresolved; and
- the Commission should not change its oversight of the investor-owned utilities' (IOUs) short-term (less than five years) contracts that comply with the utility's bundled procurement plan.

In addition, during the meeting with Mr. Poirier, DRA recommended:

- The Commission should require an independent process evaluation of the IOUs' Least Cost Dispatch methods, procedures, software models, and model assumptions.

DRA also recommended that the Scoping Memo for the proposed SONGS track for the LTPP proceeding ensure that power flow modeling include assumptions about the use of demand response resources that are likely to exist in 2022, as well as reactive power likely to be available in 2022, including installation of synchronous condensers at existing SONGS sites. DRA recommended that that Commission hold a workshop about the assumptions that will be used in the SONGS track so that parties can better understand them and point out any significant errors in those assumptions. Finally, DRA stated that unless there is at least six weeks between the time that model results are available and the time that testimony is due, the schedule should shorten the time for discovery responses to less the current standard of 10 business days.

The communication with Mr. Poirier was oral. The communication with Ms. Kamins was oral and written. During the meeting with Ms. Kamins, DRA used a copy of the March 21, 2013 Administrative Law Judge's Ruling Seeking Comment on Track III Rules issues, which is attached to this notice.

Respectfully submitted,

/s/ DIANA L. LEE

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**ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON  
TRACK III RULES ISSUES**

This Ruling sets forth specific issues for consideration in Track III of this proceeding, for the purpose of developing bundled procurement rules for jurisdictional investor-owned utilities (IOUs) subject to this Rulemaking.

The Scoping Memo in this proceeding was issued on May 17, 2012. That document at 11 set forth the following expectation for Track III of this proceeding:

There will be two portions of Track 3. First we will consider what changes should be made to current procurement rules, as well as what new procurement rules should be adopted. Second, and after a decision on procurement rules, we will require the IOU to file bundled procurement plans.

The Scoping Memo preliminarily laid out certain issues and a schedule for the procurement rules portion of this track of the proceeding. At this time, we update the Track III issues and schedule.

Parties may file comments on the issues set forth below no later than April 12, 2013. Parties may file replies to comments no later than April 26, 2013. I anticipate a decision on Track III procurement rules in the third quarter of 2013.

The schedule for filing bundled procurement plans will be determined at a later date.

### **Specific Track III Procurement Rules and Questions for Parties**

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

#### **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?
- b. How can bids and offers into request for offers (RFOs) 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?
  - 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?
- 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**
- 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?
  - 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 all the California Public Utilities Commission's jurisdictional load-serving entities?
  - 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?
- 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?
  - c. Should the QCR evaluation process be moved from a quarterly evaluation to an annual, semiannual (or other term) process?
- 7. Refinements to the Independent Evaluator (IE) program**
- a. Please comment on the following proposal:
    - i. The rules for whom or which entity may qualify to be in the IE pool remain the same
    - ii. The IOUs may not limit the IE's interactions with the Commission, specifically in terms of nondisclosure agreements that restriction information sharing.
    - iii. IEs are positioned on particular assignments through a random selection process, removing IOU influence over which IE may be assigned
    - iv. IEs may remain in the selection pool for 10 years (rather than up to 6 years), subject to evaluation every 3 years (maintain current requirement for reassessment)

**IT IS RULED** that Parties may file comments on the issues set forth herein no later than April 12, 2013. Parties may file replies to comments no later than April 26, 2013.

Dated March 21, 2013, at San Francisco, California.

/s/ DAVID M. GAMSON

David M. Gamson  
Administrative Law Judge