

**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)

**COMMENTS OF NRG ENERGY, INC. IN RESPONSE TO SCHEDULING ISSUES
RAISED AT THE SEPTEMBER 4, 2013 PREHEARING CONFERENCE**

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September 10, 2013

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At the prehearing conference (PHC) in this proceeding held on September 4, 2013, assigned Administrative Law Judge Gamson granted parties the opportunity to file comments on proposed revisions to the Track 4 schedule which he and the California Independent System Operator (CAISO) raised during the PHC. Subsequently, on September 5th, the CAISO circulated via email its own proposal to modify the Track 4 schedule. On behalf of NRG Energy, Inc. (NRG), these comments address the issues created by the proposed changes in schedule. As discussed in more detail below, NRG opposes any process that leads to an “interim” decision that fails to clearly and irrevocably authorize utility procurement prior to a final decision granting authorization in which all alternatives are considered.

At the PHC and in its previously served Track 4 testimony, the CAISO advocated that a Track 4 decision should issue only after the CAISO has had the opportunity to submit into the record the preliminary report, expected to be published in January 2014, resulting from the CAISO’s Transmission Planning Process (TPP). To accommodate this request, Judge Gamson suggested a process which would result in an interim decision issuing on a timeline consistent with the current Track 4 schedule (i.e., prior to the CAISO finalizing the transmission recommendations from its TPP). In addition to authorizing a certain level of generation procurement, the interim decision would also set forth a process by which the interim procurement amounts could be adjusted, either up or down, based on the results from the TPP. A final decision would follow sometime later in 2014 after the Commission had an opportunity to review the final results of the TPP, which are expected to be approved by the CAISO Board of Governors in March 2014.

NRG opposes any process that leads to an “interim” decision that fails to clearly and irrevocably authorize utility procurement. From a project developer’s perspective, an interim, conditional decision is really no decision at all. Absent a contract approved by the Commission without threat of revocation or modification, developers will not move beyond the initial phases of project development to expend the tens of millions of dollars that will be required to complete a project. Given the long lead time for getting a project on-line, every month of delay is a month more that the reliability issues, particularly in the San Diego load pocket, will remain unaddressed.

Instead of issuing a conditional, interim Track 4 decision, the Commission should issue an initial, binding decision which identifies a minimum amount of new generation necessary to maintain reliability independent of any non-generation alternatives that could be identified and pursued. That initial decision should issue on the timeline consistent with the existing Track 4 schedule. In particular, as recommended in the Preliminary Reliability Plan for LA Basin and San Diego, a report cosponsored by staffs from the Commission, the California Energy Commission and the CAISO, the Track 4 decision “expected in early 2014 to address reliability needs in the LA Basin and San Diego . . . should provide procurement authorization *beginning in 2016* to address the need resulting from the Encina facility’s December 2017 OTC compliance deadline.”¹ However, to meet a December 2017 on-line date, financial commitments to new equipment must be made by the middle of 2015. This schedule is possible if all regulatory approvals are obtained by mid-2015. Accordingly, the Commission’s initial Track 4 decision should adopt a binding authorization to procure new megawatts to address the void that will be left by the scheduled retirement of the Encina facility. Such an approach would be consistent with the procurement authority sought by both the Southern California Edison and San Diego Gas & Electric Companies in their August 26, 2013 initial Track 4 testimony.

After adopting its initial, non-conditional procurement authorization in either late 2013 or early 2014, the Commission could schedule a secondary phase of Track 4 to permit the CAISO’s TPP results to be introduced into the record, after which the Commission can conclude its analysis as to whether any more new generation is required beyond the minimum amount previously authorized. Although it is too early to tell at this stage, the Commission should leave

¹ Preliminary Reliability Plan for LA Basin and San Diego, Draft August 30, 2013, p. 5, emphasis added (available at the following link: http://www.energy.ca.gov/2013_energy_policy/documents/2013-09-09_workshop/2013-08-30_prelim_plan.pdf.)

open the possibility that hearings will be necessary to review the results of the CAISO's TPP and the impact those results will have on procurement. It is important that this proceeding provide a forum in which generation and transmission alternatives are fairly and transparently compared. Issues such as feasibility and cost will be important factors in determining whether the CAISO's TPP recommendations should be relied upon in determining the need for new generation.

In summary, the Commission should not pursue a process that results in a conditional and potentially revocable procurement authorization. Instead, on the current Track 4 timeline, the Commission should issue a binding procurement authorization to address the minimum reliability needs of the Los Angeles Basin and San Diego local reliability areas. After that initial decision, the Commission can then pursue a subsequent phase which permits a full and open consideration of the CAISO's TPP results.

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Respectfully submitted,

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