

**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

R.12-03-014

(Filed March 22, 2012)

**COMMENTS OF THE CALIFORNIA ENVIRONMENTAL JUSTICE
ALLIANCE, SIERRA CLUB CALIFORNIA, AND PROTECT OUR
COMMUNITIES FOUNDATION REGARDING SCHEDULING ISSUES**

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Pursuant to the Administrative Law Judge’s direction given at the Pre-hearing Conference held September 4, 2013, California Environmental Justice Alliance (“CEJA”), Sierra Club California (“Sierra Club”), and Protect Our Communities Foundation (“POC”) respectfully submit these Opening Comments regarding the scheduling for Tracks II and IV in this proceeding.

CEJA, Sierra Club and POC urge the Commission to require that any decision related to resource procurement in the SONGS area fully evaluate transmission mitigation solutions and reactive power. Thus, the schedule in Track IV should be adjusted so that no determination of need is made until the California Independent System Operator (CAISO) has incorporated its transmission planning results into its testimony. Any scheduling proposal that requires a determination of need prior to consideration of CAISO’s completed testimony will be inherently inefficient, could lead to unnecessary procurement, and risks circumventing the kind of public process appropriate in these proceedings. Alternatively, if the Commission intends to consider any procurement requests in the San Onofre Nuclear Generating Station (SONGS) area prior to CAISO’s incorporation of its transmission planning results, that consideration should be limited to procurement of preferred resources.

CEJA, Sierra Club and POC also believe that scheduling of Track II should allow for incorporation of the final results of Track IV, whatever scheduling proposal is adopted.

I. INTRODUCTION

The SONGS retirement presents California with a crucial opportunity to ensure that the State meets its energy needs while complying with its environmental laws and advancing its environmental goals and policies. California is one of the largest greenhouse gas (GHG) emitters in the world and a leader in climate policy, making its GHG mitigation efforts important both nationally and globally.¹ California has committed to mitigating the impacts of climate change by reducing greenhouse gas emissions to 1990 levels by 2020, and to reducing GHG emissions by 80 percent below 1990 levels by 2050.² Making the right decisions related to SONGS will be critical to achieving those commitments, as well as to protecting communities that already live with the health consequences of power generation based on the burning of petroleum products.

When the Commission initiated Track 4 to determine the effects of the SONGS retirement on energy needs, it requested that CAISO model local reliability impacts of a long-term SONGS outage.³ In its August 5, 2013 testimony for Track 4, CAISO did not evaluate the potential reactive power and transmission solutions that could mitigate resource needs in the LA Basin and SDG&E service area.⁴ Due to this omission, CAISO correctly concluded that a complete analysis of reliability impacts requires consideration

¹ See J. Williams, et. al, The Technology Path to Deep Greenhouse Gas Emissions Cuts by 2050: The Pivotal Role of Electricity, SCIENCE, Vol. 335, no. 6064 at p. 53 (January 2012).

² California Assembly Bill 32, the Global Warming Solutions Act of 2006, Chapter 488 (2006).

³ Revised Scoping Ruling and Memo of the Assigned Commissioner and Administrative Law Judge filed May 21, 2013, p. 4 and Attachment A at p. 2.

⁴ See CAISO Track 4 Testimony at pp. 17, 30-31.

of transmission mitigation solutions (including additional reactive support) that was not included in its August 5, 2013 testimony.⁵ CAISO has requested that the Track 4 schedule be adjusted to allow CAISO to submit complete testimony that evaluates transmission mitigation projects considered in its 2013-2014 Transmission Planning Process in January.

CEJA, Sierra Club and POC agree that complete information regarding transmission solutions and reactive power must be considered before any determination of need, for several reasons. Initially, it is critical that complete information regarding transmission mitigation solutions, including reactive support, be fully considered before any need determination is made given the significant impact consideration of those factors will have on need. In addition, any determination made before transmission mitigation is evaluated is likely to lead to unnecessary procurement. There is no excuse for making a premature decision on California's energy future without considering a complete record since even

SCE's testimony shows that when transmission mitigation and preferred resources are considered, there is likely no procurement needed in the LA Basin.⁶

Finally, authorizing "interim" procurement based on incomplete information will require additional evidentiary hearings, resulting in an inherently inefficient process. It will also make it more difficult for parties with limited resources, such as CEJA, Sierra Club and POC, to fully participate. While it is not certain that consideration of CAISO'S completed testimony will reduce or eliminate all factual issues requiring evidentiary hearings, it is certain that any proceedings that do not include that testimony will involve

⁵ See CAISO Track 4 Testimony at pp. 30-31.

⁶SCE Testimony at p.3, lines 10-13; Transcript of Pre-Hearing Conference September 4, 2013, pp. 288-290.

significant factual issues. Litigating those issues twice is an inefficient use of party and Commission resources. By contrast, failing to provide for full opportunity to test factual differences would deprive the Commission of the opportunity make decisions based on facts and deprive the public of critical public process.

In particular, CEJA, Sierra Club and POC object to any process that even considers allowing the procurement of gas-fired generation before the record is complete and the transmission mitigation options, including additional reactive power, have been fully considered by the parties and the Commission. Accordingly, the Track 4 schedule should be reconfigured in 2014 to provide the same process that currently exists in Track 4, including Intervenor opening testimony, reply testimony by all parties, and the option for evidentiary hearings.

II. DISCUSSION

A. No Determination Of Need Should Be Made In Track 4 Absent Complete Information Regarding Transmission Mitigation, Including Additional Reactive Power.

CAISO has urged the Commission to adjust the Track 4 schedule to allow CAISO to submit testimony incorporating its updated transmission studies, which will include an analysis of transmission mitigation solutions missing from its August testimony. CAISO has also stated that it would incorporate the new California Energy Commission demand forecast. CAISO has suggested that the Commission's decision should be "holistic" in nature, and should issue in Q2 or Q3 of 2014 depending on the necessity of hearings.⁷ Given CAISO's cautionary tendencies and statutory charge, this is a significant request. CEJA, Sierra Club and POC agree that there are compelling reasons to engage in this holistic approach, the most important of which is that no fully-informed determination of

⁷ Email from CAISO counsel dated September 5, 2013.

need can be made until transmission and reactive power solutions have been considered fully.

The Revised Scoping Memo that added Track IV to this proceeding requested that CAISO model local reliability impacts of a long-term SONGS outage.⁸ CAISO has submitted testimony regarding the issue, but that testimony recommends that the Commission defer any decision about the need for additional resources until completion of CAISO's studies of potential transmission mitigation solutions, including the need for additional reactive support.⁹ CAISO's attorney has informed the Commission that "from the ISO's standpoint, our testimony is not really finished yet."¹⁰

CAISO has also stated that it wants to consider incorporating the CEC's anticipated 2013 IEPR demand forecast.¹¹ Incorporating a more recent demand forecast could significantly reduce or eliminate need as the most recent draft of the demand forecast was over 1,700 MW lower in 2022 for the LA Basin and the San Diego areas.¹²

CEJA, Sierra Club and POC agree that additional transmission mitigation solutions, the need for reactive support and the most recent demand forecast should be considered before any informed decision can be made regarding resource need in the SONGS region. CEJA, Sierra Club and DRA raised this very issue in a joint motion filed June 28, 2013 asking the Commission to request CAISO to model the full range of

⁸ Revised Scoping Ruling and Memo of the Assigned Commissioner and Administrative Law Judge filed May 21, 2013, p. 4 and Attachment A at p. 2.

⁹ Track 4 Testimony of Robert Sparks on behalf of CAISO, p. 31.

¹⁰ Transcript of September 4, 2013 Pre-Hearing Conference, R 12-03-014, at p. 286.

¹¹ CAISO August 5, 2013 Test. at p. 30.

¹² Compare CEC 2013 IEPR, Preliminary, Demand Forecast with CEC 2012 IEPR, Demand Forecast for LA Basin and San Diego. The CEC projection presented in the workshop for SCE territory shows the actual peak demand has been declining since 2009. Michael Jaske, CEC, CEC/CPUC Workshop, Slide 4 (July 15, 2013).

reactive power resources identified in transmission planning process.¹³ CAISO apparently now recognizes that inclusion of such resources is an essential element of a considered analysis of LCR need in the SONGS region.¹⁴

Significantly, there appears to be no dispute on this point. Each of the utilities submitting testimony in Track 4 recognized that consideration of reactive power and transmission solutions has a significant impact on local reliability need.¹⁵ SCE, in fact, concluded that consideration of possible transmission solutions along with strategic location of Preferred Resources could displace the need for **any** additional new LCR resources.¹⁶ The only reason SCE has requested authorization of new resources in Track 4 is because CAISO had a higher expectation of need than SCE's analysis showed.¹⁷ CAISO's estimate of need, however, is based on testimony that is by its own admission incomplete -- its complete testimony may well concur with SCE's conclusion that no new procurement is required.

In sum, the Commission and the parties should have CAISO's completed testimony before them before any decision is made on those requests and before any determination regarding the existence or non-existence of need for further resources in the SONGS region is made.

¹³ See June 28, 2013 Motion

¹⁴ See Track 4 Testimony of Robert Sparks on behalf of CAISO, p. 31.

¹⁵ See, e.g. Track 4 Testimony of Southern California Edison Company, August 26, 2013, at p. 3, lines 6-13; Prepared Track 4 Direct Testimony of San Diego Gas & Electric Co. (Jontry) at pp. 10-11, Tables 1 and 2.

¹⁶ Track 4 Testimony of SCE at p. 3, lines 10-13.

¹⁷ Track 4 Testimony of SCE at, lines 10-16.

B. A Tiered Schedule Is Inefficient and Could Unfairly Circumscribe the Public Process Needed in These Proceedings.

The Administrative Law Judge has proposed a modification of the Track 4 Schedule to create a two-tier approach. The first tier, which follows the existing Track 4 schedule, which would lead to an interim decision in January, 2014 regarding the expected level of capacity needed to replace SONGS for the SCE/SDG&E territory.¹⁸ That decision would be followed by a second process which takes into account the completed CAISO testimony, followed by another decision.¹⁹ The proposed interim decision would determine an expected level of capacity needed to replace SONGS for the SCE/SDG&E territory.²⁰ Any procurement authorization in the interim decision would be made in such a manner that it could be reduced or eliminated altogether if, after consideration of CAISO's completed testimony and possibly other new information, it appears that such procurement is unnecessary.²¹ Although CEJA, Sierra Club and POC support consideration of CAISO's transmission analysis, we have significant concerns about the tiered approach.

1. A Tiered Decision-Making Process Is Inherently Inefficient.

A tiered process is inherently inefficient, since all of the determinations made are subject to re-visitation and cancellation once CAISO's completed testimony and possibly other new information is considered. This two-tiered process likely means that the parties will spend more time and money preparing testimony that may be unnecessary or not as focused as it would be with the full record available. As the Administrative Law Judge noted during the Pre-Hearing Conference on September 4, 2013, a significant

¹⁸ Prehearing Conference Transcript at pp. 293-295.

¹⁹ Id.

²⁰ Id.

²¹ Id. at pp. 293-295, 297-99 and 304-307

amount of the testimony submitted by parties and a significant portion of the evidentiary hearings in this matter could be directed to positions taken by CAISO. However, with CAISO's testimony not yet complete parties are forced to prepare testimony that addresses positions taken by CAISO in its testimony filed August 5, even though those positions may change significantly when CAISO's testimony is completed. And, given the factual disputes (at a minimum concerning transmission solutions, reactive power, and their impact on the need for new resources) that now exist in light of CAISO's August testimony, it is possible that the evidentiary hearings based on the current record will be broader in scope and more time-consuming than would be the case once CAISO's testimony is completed.

This tiered approach also means that the Commission and staff will be working on two decisions rather than one, and quite possibly two sets of evidentiary hearings will be required rather than one. Duplicating efforts in this manner seems particularly unwise when one considers the fact that even SCE has determined there is likely no procurement needed in order to meet long term requirements in its region under NERC standards.

In addition, this inefficient process is especially concerning to parties such as CEJA, Sierra Club and POC that only have limited resources.

2. A Full Public Process Is Needed

Considering the importance of the issues at stake in this proceeding, it is essential that the Commission's determination be based on a complete and full record after a full and efficient public process guiding that determination. CEJA, Sierra Club and POC also have concerns that any tiered process will circumscribe the public process appropriate to these proceedings. For example, the utilities have requested authorization to combine the new generation requested in Track 4 with the procurement authorized by the Commission

in Track 1.²² Other parties will strenuously contest this request, which will require evidentiary hearings. Yet, CAISO has suggested that any evidentiary hearing required on the issue of this additional resource procurement authorization should be “very limited in scope and scheduled for only 1-2 days.”²³ Consideration of a request that could be difficult to unwind at a later date based on such an inadequate hearing schedule and an already admittedly incomplete record would not result in a decision fully informed by the requisite public process.

The critical importance of such a public process has already been demonstrated in these proceedings. For example, in Track 1 of the LTPP, CAISO’s long-term modeling failed to adequately consider a variety of preferred resources, and as in this case failed to consider any additional transmission solutions. CAISO’s Track 1 assumptions, thus, raised serious questions as to whether the expenditure of billions of dollars on non-renewable resources was justified. After evidence was developed through a complete public process that included extensive evidentiary hearings, the final Commission decision reflected a reduction of over 1,000 MW from what CAISO initially requested, which in turn saved the environment from millions of tons of GHGs and other air pollutants and saved ratepayers from billions of dollars of unnecessary expenditures.

3. To the Extent Any Procurement for SONGS Is Considered Before CAISO’s Complete Testimony Is Available, Such Procurement Should Be Limited Solely to Preferred Resources.

CEJA, Sierra Club and POC object to a tiered proceeding for the reasons stated above. However, if any consideration is to be given to procurement requests prior to CAISO’s completed testimony, CEJA, Sierra Club and POC urge the Commission to

²² See SCE Testimony at p. 55

²³ Email from CAISO counsel dated September 5, 2013.

limit such consideration to the targeted procurement of preferred resources like SCE has suggested as part of its Living Pilot program.

California must significantly reduce its greenhouse gas emissions from existing level to meet the emission reduction targets set forth under AB 32 and Executive Order S-3-05.²⁴ Because SONGS provided carbon-free energy, replacing SONGS with fossil fuel generation will both undermine achievement of California's GHG goals and exacerbate harmful pollution in an area that already suffers from unhealthy air quality. The long-term nature of conventional power plants means that approval of new fossil fuel generation will likely affect GHG emissions for 40 years into the future. These impacts cannot be viewed in a vacuum; they should be compared and added to the total of all current and future direct emissions. Recent values from a natural gas plant demonstrate that new conventional generation will emit significant amounts of GHGs and other pollutants including nitrous oxide and PM 2.5.²⁵ Since many current and proposed natural gas power plants are located near disadvantaged communities, this also raises environmental justice issues. In contrast, preferred resources generally emit little to no GHGs or other pollutants.

Furthermore, recent developments, such as the proposed decision in the Energy Storage Proceeding, suggest that development of preferred resources and energy storage will increase in the near future. A no regrets strategy consistent with the loading order and California policies requires that preferred resources are evaluated before fossil-fuel

²⁴ See J. Williams, et. al, The Technology Path to Deep Greenhouse Gas Emissions Cuts by 2050: The Pivotal Role of Electricity, Science, Vol. 335, no. 6064 at p. 53 (January 2012).

²⁵ Marsh Landing Generating Station: Commission Decisions, California Energy Commission, at pp. 35, 37, 47 (Aug. 2010) <http://www.energy.ca.gov/2010publications/CEC-800-2010-017/CEC-800-2010-017-CMF.PDF>. The CEC found that Marsh Landing can be expected to produce a maximum of 756,981 MTCO₂E annually. The CEC also found that NO_x, VOC, and PM₁₀ and 2.5 emissions would contribute to existing violations of state and federal air quality standards.

facilities are considered. Given the likelihood that consideration of CAISO's transmission mitigation options and the lower demand forecast will significantly reduce and possibly eliminate any need, the Commission should not authorize any procurement of fossil fuel generation until these have been fully and completely considered.

If the Commission wants to move forward on an aspect of Track 4, it could require SCE to flesh out its Living Pilot in workshops to evaluate the development of a program that targets procurement of preferred resources.

4. Track 2 Should Be Delayed Until a Track 4 Decision Has Been Made.

A Track 4 decision could significantly impact the evaluation of system needs in Track 2. Given this relationship, CAISO has requested a delay in Track 2 to incorporate Track 4 results. CEJA, Sierra Club and POC support CAISO's request for a delay as it will allow the parties to incorporate the results of Track 4 into the modeling for Track 2 and ensure that Track 2 does not result in unnecessary procurement.

III. CONCLUSION

For the above reasons, CEJA, Sierra Club and POC request the Commission delay a decision in Track 4 until a complete record can be developed.

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Respectfully submitted,

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