

**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)

**REPLY COMMENTS OF THE WESTERN POWER TRADING FORUM
ON TRACK 4 AND TRACK 2 SCHEDULING ISSUES**

Daniel W. Douglass
DOUGLASS & LIDDELL
21700 Oxnard Street, Suite 1030
Woodland Hills, CA 91367
Telephone: (818) 961-3001
Facsimile: (818) 961-3004
E-mail: douglass@energyattorney.com

Attorney for the
WESTERN POWER TRADING FORUM

September 13, 2013

TABLE OF CONTENTS

I. Any Interim Procurement Authorization that Provides for the Possibility of a Subsequent Downward Adjustment in the Amount of Power to be Procured Would be a Wasted Effort. 2

II. The Recommendation that any Procurement Authorization be Made Solely for Preferred Resources Ignores the Fact that it is Yet to be Determined how Such Resources Should Count Against Local Capacity Requirements. 5

III. Further Work on Track 2 Should be Deferred until after Track 4 has been Resolved, Subject to the Condition Proposed by TURN 7

IV. The One-Week Delay in the Filing of Opening Testimony Should be Adopted. 7

V. Conclusion 8

**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)

**REPLY COMMENTS OF THE WESTERN POWER TRADING FORUM
ON TRACK 4 AND TRACK 2 SCHEDULING ISSUES**

In accordance with the directive of assigned Administrative Law Judge (“ALJ”) David Gamson at the September 4, 2013 prehearing conference (“PHC”), the Western Power Trading Forum¹ (“WPTF”) respectfully submits the following reply comments on Track 4 and Track 2 scheduling issues. WPTF’s comments focus on the following issues:

1. WPTF supports the interim decision approach proposed by ALJ Gamson, although it should be made explicitly clear that any subsequent decision will not reduce the procurement authorization granted in the interim decision.
2. It is premature to mandate that any interim procurement authorization be made solely for preferred resources² since the Commission and CAISO are yet to determine how preferred resources should count towards local capacity requirements (“LCR”). Instead, the procurement authorization should mandate an all-resource RFO.

¹ WPTF is a California non-profit, mutual benefit corporation. It is a broadly based membership organization dedicated to enhancing competition in Western electric markets in order to reduce the cost of electricity to consumers throughout the region while maintaining the current high level of system reliability. WPTF actions are focused on supporting development of competitive electricity markets throughout the region and developing uniform operating rules to facilitate transactions among market participants.

² Similar proposals along this line were made by the Center for Energy Efficiency and Renewable Technologies (“CEERT”), Division of Ratepayer Advocates (“DRA”), jointly by the Natural Resources Defense Council, the California Energy Efficiency Industry Council, Vote Solar Initiative and Clean Coalition (“NRDC et al”), and jointly by the Sierra Club, CEJA and Protect Our Communities (“Sierra Club et al”).

3. The CAISO proposal to defer work on Track 2 issues until after Track 4 needs, policies and authorizations have been fully litigated, is appropriate, as is the condition proposed by The Utility Reform Network (“TURN”) that prior to the resolution of Track 2, no new procurement will be initiated specifically to satisfy perceived unmet system integration needs.
4. The one-week delay in the schedule for the filing of opening testimony as proposed by TURN and San Diego Gas & Electric (“SDG&E”) is appropriate and should be adopted.

I. Any Interim Procurement Authorization that Provides for the Possibility of a Subsequent Downward Adjustment in the Amount of Power to be Procured Would be a Wasted Effort.

Several parties support the concept of an interim procurement authorization decision, conditioned upon the Commission being able to reduce that authorization in a subsequent decision. These parties fail to recognize the commercial impracticality of pursuing such a course of action. For example, the California Independent System Operator (“CAISO”) notes that such an interim decision would precede the issuance of its transmission planning results and that a subsequent decision, “would provide a method for SCE and SDG&E to procure *more or less* than authorized in the interim decision.”³ Similarly, the California Large Energy Consumers Association (“CLECA”) suggests that “Interim procurement authorization may work, if deemed necessary, as long as it clearly provides for potential *downward* adjustments to that authorization...”⁴ Even Pacific Gas and Electric (“PG&E”) seems amenable to a downward adjustment in the procurement authorizations for SCE and SDG&E when it says, “In the follow-

³ CAISO, at p. 5, emphasis added.

⁴ CLECA, at p. 4, emphasis added.

up [decision], the SCE and SDG&E Track 4 procurement authorizations developed under the current, unmodified schedule would be re-evaluated later in 2014 in light of the results of the CAISO's TPP. If appropriate, those authorizations would be adjusted in light of the TPP results."⁵ Put simply, these parties are not giving adequate consideration to the commercial impracticality of such an approach.

Three parties, Southern California Edison (SCE"), NRG Energy, Inc. ("NRG") and the Independent Energy Producers Association ("IEPA") make this point clearly and persuasively. If the Commission were to issue an interim procurement authorization and leave open the possibility that the authorization could subsequently be reduced, any resulting utility requests for offers ("RFO") will most certainly be unsuccessful and under-subscribed. As noted by SCE, "It is commercially impractical for SCE to contract to procure more generation than the Commission will ultimately authorize."⁶ SCE further observes that, "If resource developers are uncertain of whether the Commission will ultimately authorize SCE to contract with them in the final Track 4 decision, they may not be motivated to pursue contracts."⁷ NRG explains the rationale for this lack of motivation, "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."⁸

⁵ PG&E, at p. 2. PG&E might be less sanguine about reductions of previously authorized procurement if it was to apply to one of its own proposals, such as the Oakley Generating Station.

⁶ SCE, at p. 2.

⁷ Id, at p. 3.

⁸ NRG, at p. 2.

IEP also explains the commercial impracticality of issuing a conditioned procurement authorization:

If the procurement commitments authorized by the interim decision could later be undone by a subsequent decision, it is unlikely that the interim decision will result in any procurement at all. Considerable time and financial commitment are required to prepare a bid for a Request for Offers (RFOs), and if the commitments to the resources procured pursuant to the interim decision are contingent or subject to later revocation, few bidders are likely to participate in the RFO. The procurement authorized by the interim decision should be “no regrets” procurement that will be needed regardless of what comes out of the TPP, and the interim decision procurement should not be subject to later revocation.⁹

It would be a futile waste of time for the Commission to issue a conditioned procurement authorization that could be adjusted downward by a subsequent decision. As noted in the comments above, developers need certainty that they are not chasing ephemeral Commission authorizations and that their substantial investments in project development will not be undercut by a subsequent “never mind” ruling from the Commission. While WPTF has never been a supporter of the “hybrid market” concept that the Commission has implemented over the past decade, we note that if competitive generation is to be an equal partner in that hybrid market, then the Commission cannot undercut competition by making procurement authorizations that ignore the reality of how competitive markets function.

For that matter, upward adjustments to a procurement authorization could also be problematical if they were to occur during the pendency of a utility’s RFO. Both generators and other market participants need certainty with regards to upcoming utility procurement. Generators need to know what opportunities there may be to develop new projects or sell power from existing, under-utilized facilities. Non-utility load-serving entities need to be aware of utility procurement in order to plan their own procurement efforts (which are especially affected

⁹ IEP, at p. 2.

by the Commission's frequent over-reliance on application of the cost allocation mechanism to utility procurement). As a general rule, letting a utility conduct and complete an RFO to implement a specific Commission authorization would seem preferable to changing the procurement authorization in the midst of an ongoing RFO. In conclusion, WPTF therefore endorses the recommendation of NRG:

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.¹⁰

This approach is reasonable, commercially practical and should be adopted by the Commission. WPTF therefore supports an interim procurement decision that would authorize an all-resource RFO that would not be limited solely to preferred resources.

II. The Recommendation that any Procurement Authorization be Made Solely for Preferred Resources Ignores the Fact that it is Yet to be Determined how Such Resources Should Count Against Local Capacity Requirements.

It is premature to mandate that any interim procurement authorization be made solely for preferred resources as recommended by DRA, NRDC et al and Sierra Club et al. The problem with this approach is that the Commission and CAISO have not yet determined how preferred resources should even count towards local capacity requirements. The Commission plans to examine this issue in the next phase of the resource adequacy docket R.11-10-023. The August 2, 2013, Phase 3 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (“RA Scoping Memo”) in that proceeding provides that, “In Phase 3 of this proceeding, we will consider issues that we must resolve to implement the flexible capacity framework for

¹⁰ NRG, at p. 2.

the RA compliance year of 2015.”¹¹ It further specifies that, “In workshops and comments, stakeholders will *develop counting rules*, eligibility criteria, and must-offer obligation for use-limited resources, preferred resources, combined cycle gas turbines, and energy storage resources for Commission consideration.”¹² However, the RA Scoping Memo also provides that a “Final Decision adopting 2014 LCR/FCR and other topics within Scope” is not anticipated until at least June of 2014. As a decision in this phase of the LTPP is expected to issue by the end of this year if no hearings are held and by early 2014 if hearings are held, a decision mandating the procurement solely of preferred resources would be premature, at best.

Furthermore, CAISO is similarly pursuing this topic and its deliberations are just getting underway also. CAISO has posted a paper proposing a methodology:

...to support California’s policy emphasis on the use of preferred resources by considering how such resources can constitute non-conventional solutions to meet local area needs. These resources specifically include energy efficiency, demand response, renewable generating resources and energy storage. In addition to developing a methodology to be applied annually in the transmission planning process, the paper also describes how the ISO will apply the proposed methodology in the 2013-2014 transmission planning cycle.¹³

In summary, while California will definitely want to consider the use of preferred resources moving forward, attempting to mandate solely their usage in a decision that will issue in the next three to five months is premature. Instead, as noted in the previous section, the interim decision should authorize an all-resource RFO.

¹¹ RA Scoping Memo, at p. 3.

¹² Ibid, emphasis added.

¹³ http://www.caiso.com/Documents/2013-2014TransmissionPlanningProcessConsideration-Non-ConventionalAlternativesCallSep18_2013.htm

III. Further Work on Track 2 Should be Deferred until after Track 4 has been Resolved, Subject to the Condition Proposed by TURN

WPTF agrees with the CAISO proposal to defer work on Track 2 issues until after Track 4 needs, policies and authorizations have been fully litigated. This is appropriate, as is the condition proposed by TURN that prior to the resolution of Track 2 no new procurement will be initiated specifically to satisfy perceived unmet system integration needs. WPTF subscribes to the principle that the utilities should know what their procurement counts for in advance of making procurement commitments. While TURN bases its condition on a belief that there is a significant likelihood that Track 2 will reveal no incremental need for flexible resources,¹⁴ WPTF is less inclined to speculate about what Track 2 results will look like.¹⁵ Rather, we simply believe it to be prudent to complete Track 4 as expeditiously as possible and then proceed to Track 2 upon completion, “so that the Track 4 study results and any interim or final decisions can inform the system needs analysis.”¹⁶

IV. The One-Week Delay in the Filing of Opening Testimony Should be Adopted.

Both SDG&E and TURN propose a one-week delay in the filing of opening testimony, from September 23 to September 30. WPTF concurs with this proposal, as it will allow parties greater time in which to respond to the seven issues raised by ALJ Gamson at the September 4 PHC and will not cause any delay in hearings, should they be deemed to be necessary. WPTF does not support SDG&E’s request for a two-week delay in the filing of rebuttal testimony or a delay in the currently scheduled hearing dates.

¹⁴ TURN, at p. 5.

¹⁵ Similarly, WPTF believes the statement by NRDC et al to the effect that, “The Commission should not waste resources on interim decisions of conventional generation because it is significantly likely that one or more utilities will be found to have zero need for new resources” is also premature (see NRDC et al, at p. 2).

¹⁶ CAISO, at p. 6.

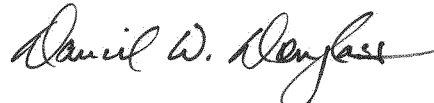
V. Conclusion

WPTF reiterates the recommendations made above that:

1. The interim decision approach proposed by ALJ Gamson should be adopted, with it made explicitly clear that any subsequent decision will not reduce the procurement authorization granted in the interim decision.
2. It is premature to mandate that any interim procurement authorization be made solely for preferred resources since the Commission and CAISO are yet to determine how preferred resources should even count towards local capacity requirements. Instead, the interim decision procurement authorization should approve an all-resource RFO.
3. The CAISO proposal to defer work on Track 2 issues until after Track 4 needs, policies and authorizations have been fully litigated, is appropriate, as is the condition proposed by TURN that prior to the resolution of Track 2, no new procurement will be initiated specifically to satisfy perceived unmet system integration needs.
4. The one-week delay in the schedule for the filing of opening testimony as proposed by TURN and SDG&E is appropriate and should be adopted.

WPTF thanks the Commission for its attention to the reply comments and discussion contained herein.

Respectfully submitted,



DOUGLASS & LIDDELL

Attorneys for the
WESTERN POWER TRADING FORUM

September 13, 2013