

**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 THE INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION RESPONDING TO QUESTIONS ASKED BY ALJ  
GAMSON AT THE SEPTEMBER 4, 2013 PREHEARING  
CONFERENCE**

**INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION**

Steven Kelly, Policy Director  
1215 K Street, Suite 900  
Sacramento, CA 95814  
Telephone: (916) 448-9499  
Facsimile: (916) 448-0182  
Email: steven@iepa.com

**GOODIN, MACBRIDE, SQUERI,  
DAY & LAMPREY, LLP**

Brian T. Cragg  
505 Sansome Street, Suite 900  
San Francisco, California 94111  
Telephone: (415) 392-7900  
Facsimile: (415) 398-4321  
Email: bcragg@goodinmacbride.com

Attorneys for the Independent Energy Producers  
Association

Dated: September 30, 2013

**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 THE INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION RESPONDING TO QUESTIONS ASKED BY ALJ  
GAMSON AT THE SEPTEMBER 4, 2013 PREHEARING  
CONFERENCE**

At the prehearing conference on September 4, 2013, Administrative Law Judge (ALJ) David Gamson invited the parties to address a list of specific questions in Track 4 testimony. The Assigned Commissioner and ALJ's ruling of September 16, 2013, regarding the schedules for Track 2 and Track 4, noted that ALJ's questions concern issues that are policy-related and are not expected to involve disputed material facts. The ruling invited parties to address the questions in comments, rather than in testimony. The Independent Energy Producers Association (IEP) responds to the ALJ's questions with these comments.<sup>1</sup>

- 1. How much of the 1400-1800 MW authorized for the Los Angeles Basin in the Track 1 decision should be assumed to be procured or in place for Track 4? 1400 MW? 1800 MW? Some lesser amount? By what date? 2018? 2020? 2022? Does it matter which resources or mix of resources is procured?**

Decision (D.) 13-02-015, the decision in Track 1 of this proceeding, authorized Southern California Edison Company (SCE) to procure between 1,400 and 1,800 MW of new

---

<sup>1</sup> The text of the questions is based on notes from the prehearing conference and may not match the phrasing of the questions recorded in the transcript for the prehearing conference.

resources in the West Los Angeles sub-area of the Los Angeles (LA) Basin local reliability area by 2021. A minimum of 1,000 MW must be procured from gas-fired resources, 50 MW from energy storage resources, and 150 MW from preferred resources. No more than 1,200 MW may be procured from conventional gas-fired resources, and an additional 600 MW may be procured from preferred resources or energy storage.

The California Independent System Operator (CAISO) assumes that 1,800 MW will be procured under the Track 1 authorization when the CAISO calculates residual resource needs for the San Onofre Nuclear Generating Station (SONGS) study area. The CAISO subtracts that 1,800 MW (plus an additional 308 MW for San Diego)<sup>2</sup> from the total 4,642 MW resource need without SONGS that was identified in the CAISO's Track 4 studies for 2022. The resulting resource need of 2,534 MW is a residual need *that assumes that 100% of the Track 1 authorization is procured and in place by 2022*. While this approach is acceptable for the simple purpose of defining parameters in the study and presenting the results, it would not be appropriate to use this approach to calculate an incremental procurement authorization for Track 4.

The Track 4 procurement authorization should be based on the total resource need identified in the updated studies presented in Track 4 testimony. The mix of resource types procured under the Track 1 authorization and the amount that SCE ultimately procures (1,400 MW or 1,800 MW) through the Track 1 solicitation have no impact on the total resource need identified in Track 4, which will include the need identified in Track 1. To the extent that resources procured to satisfy the Track 1 authorization can meet the needs identified in Track 4, those resources should count toward the total resource need identified in Track 4.

---

<sup>2</sup> This total includes 298 MW of local capacity and a 10 MW net increase in the repowered Escondido Energy Center authorized in D.13-03-029.

**2. Should any part of the proposed decision issued September 15 in the storage proceeding or other information developed in the storage proceeding be considered with regard to Track 4 procurement?**

The proposed decision in the storage proceeding is unclear about how it would be implemented in the SONGS local area. The proposed decision permits load-serving entities (LSEs) to defer a large portion of their biennial storage procurement targets to later procurement periods. It is reasonable to assume that LSEs will make use of the flexible compliance rules to defer storage procurement and allow for further technological development and cost reduction while making minimal purchases in the near term.

Under these circumstances, it would not be prudent when considering Track 4 procurement to assume that any storage is procured other than the 50 MW of storage authorized in the Track 1 decision. Certainly the Track 1 and 4 procurement authorizations and the proposed energy storage procurement framework should be complementary, *i.e.*, storage procured through Tracks 1 and 4 should count towards the statewide storage procurement targets. However, for the planning and analysis conducted in Track 4 and for any resulting procurement authorization, the Commission should rely only on storage resources that have been specifically authorized in the local area affected by the SONGS closure.

**3. Are there any updates to assumptions that should be considered in Track 4, e.g., TPP report, new CEC demand forecast, etc.?**

The Assigned Commissioner and ALJ's Ruling Regarding Track 2 and Track 4 Schedules directs parties to submit testimony in Track 4 on September 30. The schedule calls for a decision on Track 4 procurement in the first quarter of 2014. As the Assigned Commissioner and ALJ's ruling recognized, procurement decisions must be made on the basis of available information, and waiting for better information on certain topics could delay needed procurement and threaten reliability. IEP would therefore not propose any changes to

assumptions that would require additional analysis and potentially delay a Track 4 procurement decision.

The Assigned Commissioner and ALJ's Ruling left open the possibility that Track 4 could be extended into a second phase to consider the results of the CAISO's Transmission Planning Process (TPP). Final TPP results are expected in March 2014. If the Track 4 proceeding is extended to allow supplemental testimony and additional hearings to consider new evidence regarding forecasted need, it would be appropriate to consider other updates to assumptions beyond the results of the TPP. For example, the California Energy Commission (CEC) will likely have adopted a new demand forecast by the end of 2013. This new demand forecast may or may not be incorporated into the CAISO's TPP studies. Even if the new CEC demand forecast is not used in the TPP studies, it would be appropriate in a continuation of Track 4 to consider the impact of a change in the expected demand on the amount of resources needed to maintain local reliability.

As stated in the Assigned Commissioner and ALJ's Ruling, it would not be appropriate to revise the initial Track 4 procurement authorization based on any additional evidence offered in this proceeding. The Q1 2014 Track 4 decision should clearly state that the authorized amount of resource procurement shall not be subject to revision after the decision is adopted.

The impending update to the CEC demand forecast raises an additional concern. The Commission, along with the CEC and CAISO, is one of the joint agencies responsible for adopting a single demand forecast case to be used for procurement and transmission planning. One of the elements of the demand forecast that is currently subject to update is the assumed levels of additional achievable energy efficiency (AAEE). Planners treat the bulk of these

expected resources as “uncommitted” resources. In this sense, AAEE resources are unproven and untested at the scope and scale planned. These updated levels of AAEE are expected to be based on the results of a study being finalized by Navigant Consulting. The Navigant study proposed various scenarios for low-, mid-, and high-case AAEE. However, those scenarios have been the subject of some discussion within the Demand Analysis Working Group (DAWG). Various parties engaged in the working group, including IEP, have proposed alternative scenarios.

Because of the uncommitted nature of some resources, IEP recommends that the joint agencies, including the Commission, should select an updated demand forecast case that utilizes the mid-case AAEE scenario that IEP recommended to the DAWG (see Attachment 1 for IEP’s comments).

AAEE assumptions are embedded in the net load forecast prior to determining the need for other resources, and there has not yet been a concerted effort to focus development of AAEE resources to specific local areas. For those reasons, it is reasonable to be conservative about the level of AAEE assumed for the local area needs that are the subject of Track 4 in this proceeding.

As noted in IEP’s comments to the DAWG, the original mid-case scenario relied on a relatively high level of Emerging Technologies. That scenario also assumed a relatively high level of incentives and a low bar for cost-effectiveness testing. IEP’s recommended mid-case AAEE scenario is somewhat more conservative and would increase the net load within the three utilities’ service areas by roughly 800 MW relative to the mid-case scenario recommended in the Navigant Report.

**4. What is the appropriate pattern for new resource procurement in Track 4? Should some types of resources be procured earlier than others? Should new resources development be encouraged in some locations and discouraged in others?**

Because of the near-term reliability need caused by the closing of SONGS and the retirements of once-through cooled (OTC) plants in the LA Basin and San Diego, resource procurement should begin with long lead-time resources, to mitigate the risk that these resources may not be online when needed. Focusing the initial Track 4 procurement on resources with long lead times is especially important for the repowering of coastal units, specifically those that are most effective at addressing the reliability needs raised in Track 4 because of their location on the transmission system.

When the utilities conduct their Requests for Offers (RFOs), they should provide information about the relative effectiveness of resources at different locations, and take those effectiveness factors into account during least-cost best-fit evaluation, to encourage the development of resources in effective locations and discourage development of resources at locations that are less effective at meeting local reliability needs.

**5. Should there be contingency plans in case the expected levels of certain resources don't materialize on the assumed schedule?**

Yes, to the extent that local resource needs identified in Track 4 are assumed to be met by uncommitted resources whose operation cannot be guaranteed with respect to time, place and effectiveness, there should be contingency procurement to back up the reliance on those resources. The contingency resources will provide insurance against the failure of certain assumed resources to materialize and against delays in the commercial operation of those resources. These contingency resources must be committed to by 2015 to allow for their development by 2022. The commitment must be irrevocable; any uncertainty regarding the

authorization of these additional resources would undermine the insurance value that these commitments would provide. As addressed in testimony of William Monsen served concurrently with these comments, this contingent procurement could take the form of options for the development of conventional resources.

**6. Should the Commission consider methods to address and reduce potential market power for gas-fired resources in the SONGS area? If so, what measures should be considered?**

IEP supports competitive procurement. Any resource needs identified in the SONGS area should be filled with resources selected in open, competitive RFOs. As stated in IEP's July 23, 2012 testimony in Track 1 of this Long-Term Procurement Plan (LTPP) proceeding, IEP recognizes there may be situations in which there are not enough bidders to obtain competitive results from RFOs. If the utility makes a showing that it conducted an RFO and the solicitation was not workably competitive, IEP supports authorizing the utility to offer selected generators a cost-based contract (to be negotiated bilaterally and subject to Commission approval). Even in situations where the utility believes prior to issuance of the RFO that local generators possess market power, the utility should be required to proceed in good faith with the RFO before considering methods to address the presumed market power. By holding the RFO, the utility may confirm its intuition with market data, or it may find that new resources are able to respond and compete.

**7. If you are recommending the use of preferred resources or storage to meet the identified need, please indicate how the attributes of the resource will meet the LCR need.**

IEP advocates that in most circumstances, procurement should be conducted by means of all-source competitive solicitations. Consistent with this viewpoint, IEP does not have



specific comments to provide in response to this question, but reserves the right to respond in reply comments.

IEP respectfully asks the Assigned Commissioner and ALJ to consider these comments as they deliberate on the issues being addressed in Track 4 of the LTPP proceeding.

Respectfully submitted this 30th day of September, 2013 at San Francisco, California

GOODIN, MACBRIDE, SQUERI,  
DAY & LAMPREY, LLP  
Brian T. Cragg  
505 Sansome Street, Suite 900  
San Francisco, California 94111  
Telephone: (415) 392-7900  
Facsimile: (415) 398-4321  
Email: bcragg@goodinmacbride.com

By /s/ Brian T. Cragg

Brian T. Cragg

Attorneys for the Independent Energy  
Producers Association

## ATTACHMENT 1

## **Comments of the Independent Energy Producers Association Regarding the Updated Scenarios for Incremental Uncommitted (Achievable) Energy Efficiency to Be Considered for the 2013 IEPR Forecast**

The Independent Energy Producers Association (IEP) appreciates the opportunity to provide comments and suggestions regarding the revised set of scenarios that were presented to the Demand Analysis Working Group (DAWG) at its meeting on August 16, 2013. IEP's understanding of the meeting on August 16 was to consider the draft Navigant report. As copies of the proposed scenarios to be considered (and the potential impacts of those scenarios on the level of achievable energy efficiency impacts) were unavailable to us, the discussion at the meeting on August 16 was naturally limited. Accordingly, IEP appreciates the opportunity to provide written comments after having a chance to examine the scenarios and the underlying bases for them.

As an outcome of the DAWG meeting, stakeholders were asked to provide responses to a set of questions related to the scenarios being considered. IEP's responses to those questions are found below.

### **1. General Observations**

First, as a general matter, IEP is concerned that the model being used to develop the forecasted level of future energy efficiency, which will inform future levels of resource procurement in the CPUC's procurement proceedings, may not be the proper tool for developing such forecasts. The proposed model is clearly designed to assess EE potential, and develop "stretch" goals. While understanding the potential for the technology and assessing potential policy goals is an important step in the process of developing forecasts of measure impacts, these factors are not the same thing as an forecast of expected impacts. From a long-term planning and procurement perspective, the CPUC will ultimately adopt the levels of energy efficiency to be pursued by the IOUs. However, there are no guarantees that those adopted levels of energy efficiency will be achieved. In fact, it might even be correct to say that the adopted levels of energy efficiency will establish an upper bound on the future levels of utility-sponsored energy efficiency impacts. Relying on a planning model that assesses the technology potential, and establishes policy targets as the tool for predicting achievable energy efficiency has the distinct potential for overstating future impacts, which would result in understating the need for other resources to meet system needs. Given that these forecasts will be used to determine local capacity requirements and procurement levels, IEP recommends that conservative assumptions be used in the Navigant model when developing the mid-case scenario.

Second, IEP is concerned that the presentation of impacts associated with the proposed scenarios may provide a false impression of the range of potential outcomes. The fact that the various alternative Mid-Case scenarios have impacts that are less than the Mid-Case scenario originally proposed on July 9 should not imply that the impacts of the newer proposed Mid-Case scenarios are somehow skewed low. IEP notes that it has been unable to devote significant resources to vet the High-Case scenario, since this scenario will be used to bookend results.<sup>1</sup> IEP's focus in its review of the various Mid-Case scenarios is based on the fact that the Mid-Case scenario will likely have a much greater impact on local and system resource need determination in the CPUC's procurement proceedings. IEP hopes that the fact that the new Mid-Case scenarios being considered are not painted with the brush of being low-ball estimates of future impacts of achievable energy efficiency simply because of their relative magnitude compared to the High- and Low-Case scenarios.

## 2. Responses to Specific Questions

IEP's answers to the specific question stemming from the meeting on August 16 are provided below.

### **Question 1: What were the critical variables you focused on when evaluating the seven scenarios (this could include estimated savings)?**

IEP examined all of the variables being changed to form the different scenarios presented at the August 16 DAWG meeting. Of those variables, IEP had concerns about the assumptions related to five key variables. These are:

1. Inclusion of Emerging Technologies
2. Compliance enhancements
3. Incentive levels
4. TRC Threshold
5. Title 20 and Title 24 future adoption dates

The first two variables (i.e., the costs and performance of Emerging Technologies, and code compliance enhancements) are "Technical Inputs." As noted in the report, policymakers have little or no ability to affect the future value of Technical Inputs. The remaining three variables (i.e., incentive levels, TRC threshold, and the future dates for adoption of changes to Title 20 and Title 24 regulations) are "Policy Inputs." Policy Inputs are variables that policymakers can control to a certain degree.

---

<sup>1</sup> Similarly, IEP has not spent time assessing the reasonableness of the Low-Case scenario.

<sup>2</sup> IEP also notes that the TRC Threshold for ETs is assumed to be 0.5 in the Mid-Case scenarios presented on August 16, with the High- and Low-Case values being 0.4 and 0.85, respectively. It may be appropriate to adjust the

***IEP has concerns about the impacts of Emerging Technologies (ETs) in the Mid-Case scenario from July 9.*** As the Navigant draft report notes, ETs in the Residential and Commercial sectors account for almost half of the incremental market potential by 2024. While IEP understands that the Navigant model assumes different adoption rates for different ETs, the apparent reliance on ETs as the basis for almost half of the long-term incremental Residential and Commercial sector impacts seems aggressive, especially given the potential risk associated with over-estimating achievable Energy Efficiency impacts. For that reason, IEP is pleased that one of the Mid-Case scenarios (Scenario 7) considered a reduced level of impacts associated with ETs.

***IEP has concerns about the assumed level of “Code Compliance Enhancements” in the Mid-Case scenario presented on July 9.*** According to the presentation at the August 16 DAWG meeting, “Compliance enhancements models a 100% compliance rate that is achieved over a minimum time period of at least 5 years (up to 10 years for certain measures) from current compliance levels.” An assumption of “No Compliance Enhancements” means that “code compliance remains static at levels determined by the 2006-2008 EM&V studies and compliance varies by measure.” IEP understands that more recent EM&V studies may show different levels of code compliance than the prior studies. However, those EM&V studies are not being used in this round of modeling. Thus, IEP believes that it is prudent to continue to use the levels of Code Compliance from the last set of EM&V studies. This assumption is embedded in Scenario 7 as presented at the August 16 DAWG meeting.

***IEP is concerned that the level of incentives being assumed in the Mid-Case scenario might not be consistent with the impact-weighted incentive levels found in the current EE portfolio.*** Based on discussion at the August 16 DAWG meeting, IEP understands that more mature EE programs have lower incentive levels and less mature programs have higher incentive levels. When IEP asked during the DAWG meeting about the impact-weighted average incentive level, IEP was informed that such a number was not readily available but could be calculated. IEP believes that incentive levels used in the Navigant model should be consistent with the impact-weighted incentive levels found in the current portfolio and that this incentive level should evolve (and probably decline) through the analysis period as the measures mature. Using an incentive level of 50% of incremental costs (which is the assumption used in the Mid-Case scenario from July 9) may overstate the incentive levels that currently exist and that should exist in the future.

***IEP has concerns about the so-called “TRC Threshold” assumed in the various Mid-Case scenarios presented on August 16.*** In Track 1 of the CPUC’s LTPP proceeding, there was some discussion of movement toward integrated bidding between demand- and supply-side resources to fill identified local resource need. Such head-to-head competition between resources should result in the least-cost resource mix to meet requirements. However, by assuming that the TRC threshold for new EE programs are less than 1.0, the demand forecast would essentially be biased toward EE measures that might not be cost-competitive with other resources, such as storage, demand response, or efficient gas-fired generation. For this reason, IEP recommends

that the Mid-Case scenario should use a TRC Threshold of 1.0, rather than the value recommended on August 16.<sup>2</sup>

*IEP believes that there is significant uncertainty about the future dates for adopting changes to Title 20 and Title 24.* While the timing of adoption of changes to Title 20 and Title 24 is most likely within the control of policymakers, the discussion at the August 16 DAWG meeting pointed out that the dates for changes to these programs are, at best, just estimates at this point. IEP believes that using the assumptions specified in the Mid-Case from July 9 is a reasonable assumption and that making assumptions that Title 24 will be updated every three years from 2016-2022 might be overly optimistic.

*IEP's Recommended Scenarios.* Based on the above discussion, IEP recommend the following assumptions for the Low-, Mid-, and High-Case scenarios:

Scenario Number	IEP Recommendation	IEP Recommendation	IEP Recommendation
	1	2	3
Scenario Name	Low EE Penetration	Mid EE Penetration	High EE Penetration
ET's	Not Included	50% of model results	Included
Building Stock	Low Case from 2011 IEPR	Mid Case from 2011 IEPR	High Case from 2011 IEPR
Retail Prices	Low Case from 2011 IEPR	Mid Case from 2011 IEPR	High Case from 2011 IEPR
Avoided Costs	Low Case from 2011 IEPR	Mid Case from 2011 IEPR	High Case from 2011 IEPR
UES	Estimate minus 25%	Best Estimate UES	Estimate plus 25%
Incremental Costs	Estimate plus 20%	Best Estimate Costs	Estimate minus 20%
Incentive Level	25% of incremental cost	Based on Impact-Weighted Level from Current Portfolio	Varies by market maturity
TRC Threshold	1	1	0.75
ET TRC Threshold	0.85	0.625	0.4
Measure Densities	Estimate minus 20%	Best Estimate Costs	Estimate plus 20%
Word of Mouth Effect*	1%	2%	3%
Marketing Effect*	39%	43%	47%
Implied Discount Rate	20%	18%	14%
C&S Scenario Name	On-the-Books Initiatives	Expected Initiatives	Possible Initiatives
Code compliance	No compliance enhancements	No Compliance Enhancements	Compliance enhancements
Title 24 Adoption Dates	2005, 2008, 2013	2016	2016, 2019, 2022
Title 20 Adoption Dates	2005, 2006, 2008, 2009, 2011	Future Title 20	Future Title 20
Federal Standards	Already adopted	Already adopted	Future Federal Standards

For convenience, IEP's recommendations are highlighted in the above table.<sup>3</sup>

<sup>2</sup> IEP also notes that the TRC Threshold for ETs is assumed to be 0.5 in the Mid-Case scenarios presented on August 16, with the High- and Low-Case values being 0.4 and 0.85, respectively. It may be appropriate to adjust the TRC Threshold for ETs to be at the midpoint between the values for the High- and Low-Case scenarios (i.e., 0.625) instead of 0.5.

<sup>3</sup> Consistent with IEP's prior comments regarding the July 9 scenarios, IEP recommends that the retail prices used in the Low- and High-Case scenarios should be consistent with the values used in the Low- and High Demand forecasts from the 2011 IEPR, respectively.

**Question 2: Of the seven options, which scenario or scenarios would you consider the best candidate(s) for a “most likely” case? Please justify your answer in a couple of sentences.**

As noted above, IEP does not believe that any of the scenarios represent the “most likely” case. IEP believes that the “most likely” case is IEP’s Mid-Case scenario presented in the table above.

**Question 3: Which two scenarios would you like to see used to define the range (high and low) of incremental achievable savings? Please explain.**

As noted above, IEP has not been able to devote many resources to scrutinizing the High- or Low-Case scenarios presented on July 9 or August 16. Thus, IEP does not have an opinion about the merits of these scenarios (except for the suggested changes shown in the table above).

**Question 4: Is there a scenario option you would like to see that is not included among the seven scenarios? If so, please describe this scenario based on key inputs.**

See the response to Question 1 above.

**Question 5: Any other comments or suggestions for the Joint Agency Steering Committee?**

See Section 1 above.

IEP appreciates the opportunity to provide these comments.

Respectively submitted,



Steven Kelly

Independent Energy Producers  
Association



William A. Monsen

Consultant to Independent Energy  
Producers Association