

**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)

**MOTION OF THE PROTECT OUR COMMUNITIES FOUNDATION FOR OFFICIAL
NOTICE**

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November 4, 2013

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I. INTRODUCTION

Pursuant to Rules 11.1 and 13.9 of the Commission's Rules of Practice and Procedure, POC respectfully submits this motion for official notice of three documents:

1. Reliability Performance Evaluation Work Group – Phase I Probabilistic Based Reliability Criteria Implementation Procedure, dated June 14, 2001 (Previously marked for the record as POC-4).
2. Seven Step Process for Performance Category Upgrade Request, dated October 2004 (Previously marked for the record as POC-5).
3. WECC Board of Directors Request Regarding Performance Category Upgrade Request, dated February 20, 2013 (Previously marked for the record as POC-6).

II. THE WECC DOCUMENTS ARE OFFICIALLY NOTICABLE

These WECC Documents are officially noticeable. Rule 13.9 of the Commission's Rules of Practice and Procedure provides that "Official notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq."

California Evidence Code section 452 states that Judicial notice may be taken of "(b) Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States."

Section 452(b) applies to the attached documents. Pursuant to Section 215 of the Federal Power Act, the North American Electric Reliability Corporation ("NERC") responsible for developing mandatory and enforceable reliability standards. These standards, when approved by FERC, are mandatory and have the force of law. The Western Electricity Coordinating Council ("WECC") is a NERC regional entity. Per a FERC-approved agreement between NERC and WECC, NERC has delegated its legal authority to monitor and enforce compliance with NERC reliability standards to WECC.¹ Thus, WECC's rules, guidelines, regulations, and policies relating to compliance with NERC standards are regulations or enactments issued under the delegated authority of FERC, a public regulatory entity in the United States.

The documents submitted as POC-4 and POC-5 set forth WECC's official, board-approved policy for making probabilistic exceptions to contingency categorization based on NERC's official categories. By definition, exemptions to legally mandatory categories may only be made by exercising delegated regulatory authority. Thus, the policy allowing this exception must be "regulations or enactments" made under delegated governmental authority, and thus qualify as "regulations or enactments" issued under legal authority. POC-6 is an official WECC

¹ <http://www.nerc.com/AboutNERC/keyplayers/Pages/default.aspx>

report that applies POC-4 and POC-5 and identifies the documents as official WECC policies approved by WECC’s Board.

III. THE DOCUMENTS ARE RELEVANT

The attached documents are directly relevant to issues raised in the instant proceeding. CAISO, in particular, has asserted that the proposed N-1-1 planning standard is required as a mandatory deterministic Category C under WECC and NERC planning standards.² The existence of an official WECC policy allowing probabilistic exceptions to WECC deterministic categories directly contradicts the claim that N-1-1 is required by WECC and NERC standards.

The WECC policy set forth in POC-4, POC-5, and POC-6 was discussed extensively in cross-examination. The issue was discussed in POC’s cross-examination of CAISO Witness Sparks,³ POC’s cross-examination of SDG&E Witness Jontry,⁴ and the Independent Energy Producers Association’s cross-examination of Sierra Club Witness Powers.⁵

IV. CONCLUSION

For the foregoing reasons, the Protect Our Communities Foundation moves official notice of the documents identified as POC-4, POC-5 and POC-6.

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² See, e.g., Sparks Rebuttal, [CAISO Hearing Transcript](#), at p. 11.
³ Identifiary Hearing Transcript, [CAISO Hearing Transcript](#), at 1539.
⁴ Identifiary Hearing Transcript, [CAISO Hearing Transcript](#), at 78.
⁵ Identifiary Hearing Transcript, [CAISO Hearing Transcript](#), at 6.

Respectfully Submitted,

Dated: November 4, 2013

/S/

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