

**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)

REPLY BRIEF OF THE PROTECT OUR COMMUNITIES FOUNDATION

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December 16, 2013

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OPENING BRIEF OF THE PROTECT OUR COMMUNITIES FOUNDATION

I. INTRODUCTION

Pursuant to Rule 13.11 of the Commission’s Rules of Practice and Procedure, the Protect Our Communities Foundation (“POC”) submits the following Reply Brief for proceeding R.12-03-014.

In this Brief, POC responds to points raised by SDG&E, CAISO, and TURN in their respective opening briefs. As established below: (1) SDG&E has failed to establish the validity of its claimed “current deterministic approach” to transmission planning; (2) WECC’s PBRC process applies to the Sunrise Powerlink / Southwest Powerlink N-1-1 contingency; (3) the Sunrise/Southwest N-1-1 is a probabilistic Category D contingency; (4) CAISO’s proposed “no regrets” procurement proposal must be replaced with a plan with “no regrets” for ratepayers; and (5) POC’s Opening testimony in this proceeding must be given full evidentiary value.

II. SDG&E HAS FAILED TO ESTABLISH THE VALIDITY OF THE “CURRENT DETERMINISTIC APPROACH”

In its opening brief, SDG&E relies on the “current deterministic approach” (“CDA”) to justify its use of the Sunrise/SWPL N-1-1 as the limiting critical contingency for the San Diego area. Despite this reliance, evidence or citations to authority regarding the origin, nature, and substance of this “approach” remains conspicuously absent from the record. Because no party to this proceeding has established the validity of the “current deterministic approach,” the Commission must reject all arguments that rely on the approach, including SDG&E’s argument justifying its use of N-1-1.

SDG&E has claimed that it has a minimum local need of between 620 MW and 1,470 MW in 2022 based on a study it conducted for this proceeding.¹ This increased local capacity requirement is driven, in significant part, by SDG&E’s use of the N-1-1 concurrent outage of the Sunrise Powerlink transmission line (“Sunrise”) and the Southwest Powerlink transmission line (“SWPL”) as the limiting critical contingency for the San Diego Local Area.

SDG&E justifies its use of N-1-1 rather than CAISO’s official G-1/N-1 standard based on the claim that “under the current deterministic approach to contingency analysis, every conceivable N-1, G-1/N-1, and N-1-1 overload must be studied and mitigated, *regardless of the probability of its occurrence.*”²

Thus, the cornerstone of SDG&E’s argument is the assertion that the “current deterministic approach to contingency analysis” prohibits planners from considering probabilistic factors – the actual, real world likelihood of a specific contingency event occurring – when determining which contingencies to mitigate. Based on this, SDG&E argues that

¹ SDG&E Opening Brief at p. 7

² SDG&E Opening Brief at p. 23

because the SWPL/Sunrise N-1-1 is the most severe category C contingency for the San Diego Area, it must be used as the limiting critical contingency, without any consideration of the likelihood of a SWPL/Sunrise N-1-1 event occurring.

Despite SDG&E’s reliance on the CDA as the keystone of its argument, neither SDG&E nor any other party to this proceeding has submitted evidence or provided citation to authority establishing that the CDA is a law, regulation, official WECC/NERC standard or policy, board-approved CAISO policy, or a policy that has been approved or reviewed by the CPUC. It is unclear from the evidentiary record who developed this “approach,” or whether the CDA has ever been proposed or applied prior to the instant round of procurement proceedings.³

Far from being an official NERC/WECC policy, the CDA is actually inconsistent with the official NERC/WECC regulatory scheme. It has been thoroughly established in this proceeding that WECC is the official entity responsible for enforcing mandatory NERC reliability standards in the Western United States (including California).⁴ It has further been established that WECC has an official process, known as the Probabilistic Based Reliability Criteria (“PBRC”) process, which allows for individual, probabilistic exceptions to mandatory NERC/WECC contingency categorizations. In cross examination, CAISO witness Sparks described the WECC PBRC process as follows:

There is a process which the WECC has essentially codified as one of its procedures. I suppose it has a number of steps. I seem to remember it is seven.

The Main point is to look at the probability of the simultaneous outage when it comes to Category C5 contingencies, but the process also looks at to reclassify a single contingency as a category A, B to a C. If analysis is done and approved by a number of committees within WECC, I guess I forget which one it starts with,

³ See Sparks’ cross examination, CAISO witness SPARKS testified that “latest trend” at process, but Sparks was unable to provide any specific information, general, vague personal impressions. See Tr. p. 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

⁴ See e.g., Powers Opening Testimony; Exhibit 1, pp. 1

but it goes through the technical study subcommittee, the planning coordination committee, and up to the WECC board. But the sponsor goes through does the analysis moves through committees, gets it approved so that a particular contingency can be reclassified based on its probability to a lower performance standard.⁵

SDG&E’s argument that this vague and unsubstantiated “current deterministic approach” prohibits the consideration of probabilistic factors is further contradicted by SDG&E’s own recent practice. In 2007, SDG&E applied for a re-categorization of the N-2 of the proposed Sunrise Powerlink line and the Southwest Powerlink line from Category C to Category D. SDG&E has submitted no evidence establishing that there has been any official policy change at WECC regarding the availability of the PBRC process between 2007 and the present.

The absence of evidence establishing the CDA as a valid policy strongly suggests that the CDA is nothing more than an *ad hoc* creation of CAISO and the utilities, introduced in this round of procurement proceedings in order to justify the use of N-1-1 and create an artificial LCR need. Because the existence and validity of the CDA has not been established in this proceeding, the Commission must reject all arguments that rely on the CDA, including SDG&E’s justification for the use of N-1-1 as the limiting critical contingency for the San Diego area.

III. THE PBRC APPLIES TO ALL NERC CATEGORIES

WECC’s PBRC process is available for the re-categorization of all NERC Category A, B, C, and D contingencies, including the Sunrise/SWPL N-1-1 used as the limiting critical contingency by SDG&E and CAISO in this proceeding.

⁵ 2007年11月15日，SDG&E向WECC提出重新分类申请，将 Sunrise Powerlink 和 Southwest Powerlink 的 N-2 类别从 C 类重新分类为 D 类。

In its opening brief, CAISO argues that WECC’s PBRC process does not apply to the Sunrise/SWPL N-1-1, claiming that cross-examination testimony of SDG&E Witness Jontry “quite clearly put to rest the idea that the idea that the WECC re-classification process is available for an N-1-1 contingency.”⁶

However, in relying on Mr. Jontry’s testimony, CAISO ignores the contradictory testimony of its own expert witness, Sparks, who testified that the PBRC could be applied to a Category C3 such as the Sunrise/SWPL N-1-1:

As I described, it [the PBRC process] applies to - - I’ve seen it in examples applied to single contingencies being reclassified as Category C and sometimes it can reclassify double contingency to Category B. I’ve never seen it applied to Category C3, but I suppose it could be.⁷

Jontry’s assertions are further contradicted by the official WECC documents setting forth the PBRC, which make clear that the PBRC was intended to be a broad-based policy allowing the probabilistic re-categorization of any contingency.⁸

IV. THE SUNRISE/SWPL N-1-1 IS A PROBABILISTIC CATEGORY D

In its Opening Brief, CAISO appears to dismiss Sierra Club witness Bill Powers’ testimony that the Sunrise/SWPL N-1-1 is a “functional” or “probabilistic” Category D.⁹ In doing so, CAISO is attempting to sidestep an argument that they cannot address head-on, one that is fatal to their justification for their use of the Sunrise/SWPL as the limiting critical contingency for the San Diego Area.

⁶ CAISO Opening Brief, pp. 20.

⁷ Sparks Dep. Ex. 156-2, pp. 15.

⁸ See POC Opening Brief, pp. 14.

⁹ CAISO Opening Brief, pp. 20.

POC has offered extensive argument establishing that the Sunrise/SWPL N-1-1 is a probabilistic Category D contingency. All available evidence points to the real-world likelihood of the specific Sunrise/SWPL N-1-1 event being sufficiently low to qualify the event for a PBRC re-categorization from Category C (a severe event that must be mitigated) to Category D (an “act of god” event that is so unlikely to occur that mitigation is not required).

It is reasonable to conclude that the specific Sunrise/SWPL N-1-1 event is almost certain to qualify for Category D re-categorization based on SDG&E’s own probabilistic analysis. SDG&E’s 2007 PBRC application concluded that the likelihood of an N-2 event involving Sunrise and SWPL was sufficiently low to justify the N-2 event’s re-categorization from Category C to Category D.¹⁰ Because, by its very nature, an N-1-1 event should be less likely to occur than an N-2 event,¹¹ it follows that if an N-2 event involving two lines is sufficiently unlikely to qualify for Category D treatment, then an even more unlikely N-1-1 event involving the same two lines should also qualify for Category D.¹²

POC’s argument is supported by the following analysis presented in TURN’s Opening Brief:

While it may be theoretically conceivable that an N-1-1 outage would have a higher probability than an N-2 outage, TURN is not aware of any evidence in the record to support basing the Commission’s own decision on such a theoretical possibility.¹³

POC agrees that, absent a current probabilistic study of the Sunrise/SWPL N-1-1, it may be “theoretically conceivable” that the Sunrise/SWPL N-1-1 is more likely to occur than an N-2 of the same lines. In light of the convincing reasons for believing that an N-1-1 outage should be

¹⁰ POC’s CAISO filing.

¹¹ Discussion at POC’s opening Brief, pp. 15.

¹² POC’s filing.

¹³ TURN’s Opening Brief, pp. 12, 37.

less likely to occur than an N-2, POC further agrees with TURN that the Commission should not base any decision on this mere theoretical possibility. Like TURN, POC is unaware of any evidence in the record supporting this theoretical possibility.

V. A “NO REGRETS” APPROACH TO PROCUREMENT MUST CONSIDER COSTS AND BENEFITS BASED ON REAL-WORLD LIKLEIHOOD OF OUTAGES

In its Opening Brief, CAISO asks that the Commission adopt what it refers to as a “no regrets” procurement plan.¹⁴ CAISO characterizes this “no regrets” approach as one in which the Commission immediately authorizes the interim resource procurement requested by the utilities, as a “first step” down the path of addressing the SONGS Study Area’s resource needs.¹⁵

While it is clear that this approach would lead to “no regrets” for the utilities, it is equally clear that such an approach is not in the best interest of the ratepayers who will ultimately bear the financial burden of the requested procurement, regardless of whether they derive any actual, real-world reliability benefit from the procurement.

To fulfill its regulatory mandate and ensure that all rates are just and reasonable; the Commission must adopt an approach with “no regrets” for ratepayers. In light of the strong prima-facie evidence that the N-1-1 limiting critical contingency used by SDG&E and CAISO should qualify for a PBRC re-categorization to Category D, the Commission must require that a full probabilistic analysis of the Sunrise/SWPL be conducted prior to authorizing any procurement based on N-1-1.

The cost-benefit analysis here is clear. Requiring a full probabilistic analysis of the N-1-1 contingency would likely lead to its a re-categorization as a Category D contingency, resulting

¹⁴ CAISO Opening Brief at ¶¶ 33-34.

¹⁵ CAISO Opening Brief at ¶¶ 35-36.

in a significantly reduced LCR need. This would likely save ratepayers billions of dollars that they would have otherwise had to spend on unnecessary capacity that would have provided them with no meaningful reliability benefit. The benefit of ensuring that rates are just and reasonable and ensuring that billions of ratepayer dollars are not spent on unnecessary procurement strongly outweighs the minor cost and inconvenience to SDG&E associated with conducting a probabilistic study and seeking a PBRC reconsideration.¹⁶

VI. THE COMMISSION MUST GIVE FULL WEIGHT TO POC’S EXPERT

TESTIMONY

SDG&E devotes a significant section of its Opening Brief to arguing that POC’s Expert Testimony should not be given any evidentiary weight by the Commission on the grounds that the Testimony’s Sponsor, David Pepper, is an attorney, not an “Expert.”¹⁷ Because SDG&E’s argument regarding the evidentiary value of POC’s expert testimony is a *de facto* Motion to Strike and as such is barred by waiver, and because SDG&E’s argument is vague, overbroad, and unsupported by authority or Commission practice, the Commission must disregard SDG&E’s arguments and give full evidentiary weight to POC’s expert testimony.

SDG&E has waived its right to challenge POC’s Opening Testimony. At the November 1, 2013 evidentiary hearing, ALJ Gamson admitted POC’s expert testimony and associated attachments to the evidentiary record.¹⁸ Prior to the admission of POC’s expert testimony, the Parties had ample opportunity to move to strike. At the evidentiary hearing, ALJ Gamson gave

¹⁶ SDG&E has already conducted a probabilistic study and gone through the same lines, so it is unlikely that the cost or inconvenience of this process

¹⁷ SDG&E Opening Brief at pp. 33-42

¹⁸ ALJ Gamson’s decision at pp. 19-29, lines 11

all parties the opportunity to challenge the admission of POC's testimony (identified as POC-1) into the record:

ALJ GAMSON: Any other motions?

MS. LEE: POC-1 and POC-2, your Honor.

ALJ GAMSON: Is there any objection to moving those exhibits into the record?

(No response.)

ALJ GAMSON: All right. POC-1 and POC-2 are received into the record.¹⁹

Despite the fact that SDG&E has waived the right to challenge POC's expert testimony by failing to raise a timely objection, SDG&E has used its Opening Brief as a *de facto* Motion to Strike. SDG&E argues that the entirety of POC's brief should be given no evidentiary value by the Commission, a request that, if granted, would have the same practical effect as a successful motion to Strike. As such, SDG&E's arguments should be treated as a *de facto* motion to strike, and denied on the basis of waiver.

SDG&E's request should further be disregarded on the grounds that the request is overbroad. Rather than citing to specific assertions made in POC's testimony that SDG&E believes are unsupported by Mr. Peffer's qualifications, SDG&E has asked that the Commission disregard the entirety of POC's Opening Testimony. This is clearly overbroad, as the majority of POC's opening testimony merely cites to, summarizes, and applies the nineteen documents that POC included as attachments to its testimony. The validity of assertions based on these documents is self-apparent, and is not an assertion of fact based on Mr. Peffer's qualifications.

Finally, SDG&E's request should be disregarded on the grounds that it is inconsistent with Commission rules and practice. The Commission does not have any set rules regarding

¹⁹ [https://www.epa.gov/record/opening-testimony-0116156](#)

minimum qualifications for expert witnesses, and attorneys regularly sponsor expert testimony in Commission proceedings.

Respectfully Submitted,

Dated: December 16, 2013

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