

**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 SAN DIEGO GAS & ELECTRIC COMPANY
(U 902 E) TO STRIKE PORTIONS OF THE TRACK 4
OPENING BRIEF OF THE MARIN ENERGY AUTHORITY**

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December 5, 2013

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Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”), San Diego Gas & Electric Company (“SDG&E”) submits this motion to strike portions of the Track 4 Opening Brief submitted by the Marin Energy Authority (“MEA”). In addition, SDG&E respectfully requests that the Commission order a shortened response time, with responses to the motion due by December 12 and an expedited ruling shortly thereafter.

SDG&E first notes its support for the motion to strike portions of the MEA brief filed by Southern California Edison Company (“SCE”) on December 4, 2013. As SCE correctly points out, portions of MEA’s opening brief are (i) not supported by the evidentiary record; and (ii) relate to a new proposal concerning the application of the Public Utilities Code § 365.1(c)(2)(A)-(B) cost allocation mechanism (“CAM”) to community choice aggregators (“CCAs”) that was not presented in opening or rebuttal testimony and was not subject to cross-examination at evidentiary hearings.^{1/}

^{1/} SCE Motion, pp. 1, 3-4.

More generally, SDG&E notes that MEA’s Opening Brief focuses almost exclusively on issue that are being addressed in Track 3 of this proceeding, namely proposals regarding “[c]hanges to the Commission’s adopted Cost Allocation Mechanism (CAM) per Senate Bill (SB) 695, SB 790, Decision 11-05-005 and relevant previous decisions.”^{2/} Accordingly, the portions of MEA’s brief addressing policy issues related to application of the CAM to CCAs are outside the scope of Track 4 and constitute untimely, supplemental comments on Track 3 issues.

As the Commission made clear in its May 21, 2013 Scoping Memo, it established Track 4 in order to “consider the local reliability impacts of a potential long-term outage at the San Onofre Nuclear [Generating] Station (SONGS) . . .”^{3/} In its *Assigned Commissioner and Administrative Law Judge’s Ruling Regarding Track 2 and Track 4 Schedules* issued September 16, 2013 (“Ruling”), the Commission indicated that Track 4 would “consider whether an interim procurement authorization is required, and if so, the parameters for such authorization (*e.g.*, types of resources, procurement process, etc.).”^{4/} Thus, Track 4 is intended to focus on the narrow issue of whether it is necessary to authorize interim procurement of local resources to preserve local reliability in Southern California.

Given the narrow focus of Track 4, the only CAM-related issue that is within the scope of Track 4 is the question of whether the cost of new resources authorized in Track 4 should be subject to CAM treatment under the Commission’s *existing* CAM rules established in Decision (“D.”) 06-07-029, D.07-09-044, D.08-09-012, D.11-05-005 and

^{2/} *Administrative Law Judge’s Ruling Seeking Comments on Track III Rules Issues*, issued March 21, 2013 in R.12-03-014 (“Track 3 Ruling”), p. 4.

^{3/} *Revised Scoping Ruling and Memo of the Assigned Commissioner and Administrative Law Judge* (“May 21 Scoping Memo”), p. 4.

^{4/} Ruling, p. 3.

13-02-015. These rules clearly apply to CCAs;^{5/} while the Commission invited comments on the existing CAM rules in Track 3, it neither suspended nor eliminated applicability of the existing CAM rules to CCAs (or to Direct Access [“DA”] customers). Thus, to the extent MEA’s brief addresses the question of whether it is a “benefitting customer” under the existing CAM rules and may be allocated a portion of the cost of new resources authorized in Track 4, it is within the scope of Track 4. However, to the extent MEA’s brief presents arguments related to the purported shortcomings of the existing CAM rules, as well as broad proposals for new CAM rules, including rules regarding reduced confidentiality of procurement information, it is outside the scope of Track 4. Based upon this distinction, SDG&E recommends that, in addition to the portions of the MEA brief identified by SCE, the Commission should strike the following portions of MEA’s brief:

- Summary of Recommendations section
- Section I (p. 2-3)
- Section II (pp. 3-5)
- Section III (pp. 5-12)
- Section IV (A)-(G) (pp. 12-17)
- Section VI (pp. 24-26)
- Section VIII (E) (pp. 33-35)
- Section VIII (pp. 35-46)
- Section IX (pp. 46-49)

^{5/} D.13-02-015, *mimeo*, p. 99, citing D.06-07-029, *mimeo*, p. 26. *See also* D.13-08-023, *mimeo*, Conclusions of Law 2 and 3 (noting that SB 790 does not (i) require the Commission to re-evaluate existing CAM rules; or (ii) find that existing mechanisms violate the requirement that cost allocation and fees remain fair and equitable to all customers.)

For the reasons set forth above and in the motion filed by SCE, the Commission should strike the portions of MEA's brief that are outside the scope of Track 4 and are not supported by the evidentiary record. SDG&E notes further that the in-scope arguments offered by MEA are without merit, and that it will fully address such arguments in its reply brief.

Dated this 5th day of December, 2013 in San Diego, California.

Respectfully submitted,

/s/ Aimee M. Smith

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