

**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 BRIEF OF THE WESTERN POWER TRADING FORUM
ON TRACK 4 ISSUES**

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RECOMMENDATIONS

WPTF reiterates the recommendations made in its opening brief:

1. Subject to the caveats and safeguards recommended in its opening testimony and discussed in its opening brief, WPTF does not oppose the SCE Contingent Resources Strategy. WPTF takes no position on the amounts of the proposed SDG&E procurement but offers certain other recommendations concerning the utility's plans.
2. Rather than mandating that any procurement authorization be made solely for preferred resources, the Commission should mandate an all-resource Request for Offers ("RFO"). Since the Commission has yet to determine how preferred resources should count towards local capacity requirements ("LCR"), it should provide guidance to the utilities on this topic.
3. WPTF believes that an all-source RFO is preferable for securing the Track 4 Option Contracts proposed by SCE, in which all parties with credible proposals can participate.
4. The utilities must allow existing brown field or once-through cooling ("OTC") units to participate in their respective Track 4 RFOs.
5. The Commission should not issue a procurement authorization that contains a condition that allows the level of the procurement to be adjusted downward by a subsequent decision.
6. The procurement approved here should not in any way be deemed to undermine the previously litigated and Commission-approved principle that SCE project development costs may not be recovered from ratepayers if the development leads to utility-owned generation ("UOG").
7. The Commission should make it explicitly clear that the SCE contingency plans will not be permitted to be converted at a later date into new UOG. This can be accomplished by setting forth explicit criteria pursuant to which the Option Contracts can and will be terminated, and explicit criteria pursuant to which the sites established pursuant to the Contingent Site Development will be made available to prospective developers.
8. The utilities' respective requests for CAM treatment for their planned procurement should be denied on the grounds that each has failed to make the necessary showing to justify its application.

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The Western Power Trading Forum¹ (“WPTF”) respectfully submits this reply brief in Track 4 of the Long-Term Procurement Plan (“LTPP”) proceeding pursuant to Rule 13.11 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”) and the schedule set forth by Administrative Law Judge (“ALJ”) David Gamson on November, 1, 2013 at the conclusion of hearings.

WPTF’s opening brief conformed to the directives concerning briefs that were contained in ALJ Gamson’s November 4, 2013 email, which directed that, “Based solely upon the record in this proceeding, briefs should include a clear argument setting forth the party’s position on what determinations the CPUC should make on the following issues.” WPTF responded to each of the five issues identified by ALJ Gamson in its opening brief and thus does not discuss those issues further at this time. Instead, WPTF responds herein to opening brief positions advocated by several parties.

I. The Commission Should Not Prescribe the Procurement of Specific Types of Resources but Should Instead Mandate All-Source RFOs be Conducted.

As noted in its opening brief, WPTF recommends against the adoption of any standards

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.

that mandate the procurement of specific resources or categories of resources. Rather than arguing for or against gas-fired or any other type of generation, WPTF believes that it will be more effective and efficient to determine the technical specifications of resources that are needed to operate the grid reliably and economically and then direct that the utilities hold all-source RFOs that seek resources that meet the approved technical specifications. This recommendation is supported by numerous parties, such as Alton Energy,² the California Energy Storage Alliance (“CESA”),³ the Independent Energy Producers Association (“IEP”),⁴ NRG Energy, Inc.,⁵ Pacific Gas and Electric (“PG&E”),⁶ Southern California Edison (“SCE”),⁷ The Utility Reform Network (“TURN”),⁸ and Wellhead Electric.⁹

However, certain other parties, the California Environmental Justice Alliance (“CEJA”), Environmental Defense Fund (“EDF”), EnerNOC, Inc. (“EnerNOC”), Office of Ratepayer Advocates (“ORA”), Sierra Club California (“Sierra Club”) and Vote Solar Initiative (“Vote

² “All-source RFOs and bilateral contracts are preferred to accommodate the unique characteristics of energy storage and preferred resources.” Alton Energy at p. 7.

³ “Procurement authorization should include all resources, including energy storage, with attributes that meet local area needs, rather than being constrained to specific types or categories of resources.” CESA at p. 2.

⁴ “IEP urges the Commission, in consultation with the CAISO, to focus on defining the attributes of the resources needed for reliability, and to direct each utility to conduct an all-source solicitation to procure the resources able to provide those attributes.” IEP at p. 3.

⁵ “...incremental procurement authorized should not be limited to preferred resources, nor should any portion of the authorized procurement be “carved out” expressly for preferred resources.” NRG at p. 2.

⁶ “The recommendations to reduce or eliminate the incremental LCR need based on presumed development of substantial additional preferred resources should be rejected. The first step should be to identify the incremental need that must be met.” PG&E at p. 11.

⁷ “Allowing as many resource types to bid as possible will increase competition and enhance the potential solutions for awards of contracts.” SCE at p. 11.

⁸ “TURN recommends that Southern California Edison (“SCE”) and San Diego Gas and Electric (“SDG&E”) each be authorized to procure up to 500 MW, plus or minus ten percent ($\pm 10\%$), on an “all source” basis for the purposes of meeting local reliability needs in the Western LA Basin (LA Basin) and San Diego Local Reliability Areas (“LRAs”) within their respective service territories.” TURN at p. 1. *See also*, “As a general matter, TURN strongly prefers that the IOUs hold competitive Requests for Offers (“RFOs”) to solicit the broadest possible set of proposals to meet such needs.” TURN, at p. 3.

⁹ “Procurement authorizations should include all resources, including storage, with attributes to meet local area needs, rather than being constrained to specific types of projects.” Wellhead Electric at p. 1.

Solar”), stridently oppose the use of gas-fired generation to meet the utility-identified resource needs and instead advocate preferences or set-asides for “preferred resources.”¹⁰ ORA, one of the proponents of preferred resource procurement is candid enough to concede that an all-preferred resources approach could be problematical:

Relying on preferred resources to meet LCR need is not without challenges. SCE points out that whether or not a specific type of preferred resource can effectively meet LCR need depends on how quickly it can respond to a contingency (assuming it is dispatchable), the preferred resource’s availability when it is needed, and the duration of the availability. TURN observes that planning for the widespread use of preferred resources to meet local capacity needs “faces several key uncertainties, particularly as to the quantities that will be available, the ability of these quantities to meet local reliability needs, and the costs of such resources.”¹¹

ORA then concludes that, “the challenges are not insurmountable,”¹² but offers little in the way of specifics on how to meet these challenges. WPTF is not so sanguine about the ability of the utilities to address the significant challenges and believes that casting aside reliability and cost-effectiveness is simply not a prudent course for the Commission to adopt. The very realistic possibility is that dictating specific levels of preferred resource procurement in this phase of the LTPP proceeding could well be counterproductive to the goals of reliability and cost-effectiveness. The potential for such an outcome should be avoided, and therefore WPTF reiterates that the Commission should identify the operating characteristics that are needed to meet the southern California electric grid needs reliably and economically rather than specifying “winners and losers” as to generation types. Ratepayer interests will better be served by directing that all resources, preferred, renewable, and conventional, should be allowed to participate in the SCE and SDG&E RFOs. An all-resource RFO will elicit the most competitive

¹⁰ See, CEJA Summary of Recommendations; EDF at p. 5; EnerNOC Summary of Recommendations; ORA at pp. 24-25; Sierra Club at p. 26; and Vote Solar at p. 4.

¹¹ ORA, at p. 25.

¹² Id. at p. 26.

offers and ensure that the system needs that have arisen due to the early closure of the San Onofre Nuclear Generating Station (“SONGS”) are appropriately resourced.

On a related matter, WPTF advocated in its opening testimony that the Commission should make it clear that in pursuing both the Contingent Site Development and the Option Contracts contingency proposals, SCE should allow existing generators, including OTC unit owners, to offer their sites for redevelopment. Further, a similar accommodation should be adopted with respect to procurement approved for SDG&E. Existing brown field or OTC sites offer the advantages of existing air permits, transmission interconnections, natural gas interconnections, and frequently the ability to be redeveloped on a timelier and more economic basis than new green field development. Therefore, approval of the SCE and SDG&E procurement recommendations should specifically require each utility to allow such proposals to be considered in all aspects of the Track 4 procurement. Further, this recommendation conforms to SCE’s existing plans according to its witness Rumble.¹³

A similar recommendation was offered by Alton Energy, who noted:

A better strategy is to use a modest subset of Once Through Cooling “OTC” Generators as the backup source of generation, available at lowest cost, if added generation is needed. It has generally been overlooked in the discussion that the retirement of SONGS has caused an early acceleration of meeting OTC Goals, due to SONGS having been such a large portion of the OTC thermal load into the Pacific Ocean. There is strong indication that the remainder of OTC Retirements can be flexibly delayed, if needed, to help create the best transition to zero carbon energy in the future, and still meet state Goals.¹⁴

For that matter, CEJA also embraced at least a short-term usage of OTC plants when it advocated that, “CEJA also recommends that the Commission seek short-term (2-4 year) extensions of Encina and other OTC plants in order to allow resources such as the energy storage

¹³ Tr., at p. 2074.

¹⁴ Alton Energy at p. 3.

required by the recent storage decision to come online.”¹⁵ ORA also recommends that, “Notwithstanding California’s commitment to meeting OTC compliance deadlines, the Commission should consider that limited extensions to OTC compliance deadlines of the most electrically effective OTC plant(s) may be available if needed to bridge a short-term gap between when resources are needed, and when they are available.”¹⁶ In summary, OTC and brown field sites can play a valuable role in meeting the needs that have arisen due to the premature closure of SONGS.

II. The Procurement Authorizations Granted in This Track 4 Should be Firm and Not Interim.

A few parties, including CEERT, EnerNOC, Natural Resources Defense Council (“NRDC”) and ORA, continue to support the concept of an interim procurement authorization decision, which is presumably conditioned upon the Commission being able to reduce that authorization in a subsequent decision.¹⁷ As noted in WPTF’s opening brief, these parties fail to recognize the commercial impracticality of pursuing such a course of action. WPTF concurs with the recommendation of IEP in its opening brief:

The authorized solicitations should be a “no regrets” all-source procurement, and the resulting contracts should be honored even if the TPP or other studies suggest that the procurement of these resources may not have been necessary at this time. Developers of generation who respond to the interim procurement should not be subject to having their contracts cancelled if later events do not turn out exactly as forecasted.¹⁸

An interim procurement authorization that leaves open the possibility of a subsequent reduction would cause the resulting utility RFO to be unsuccessful and under-subscribed. As noted by SCE in its September 10 opening comments on schedule, “It is commercially impractical for

¹⁵ CEJA Summary of Recommendations at p. viii.

¹⁶ ORA at p. 27.

¹⁷ Center for Energy Efficiency and Renewable Technologies (“CEERT”) at pp. 2-3; EnerNOC at p. 3; NRDC at pp. 17-19; and ORA at pp. 23-24.

¹⁸ IEP at p. 30.

SCE to contract to procure more generation than the Commission will ultimately authorize.”¹⁹ SCE further observed in those comments 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.”²⁰ In conclusion, 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.

III. The Utilities have not met the burden for justifying application of the Cost Allocation Mechanism.

Both utilities’ requests for Track 4 procurement authorization are conditioned on SCE receiving Cost Allocation Mechanism (“CAM”) treatment. WPTF concurs with the arguments contained in the opening brief of the Direct Access Customer Coalition and Alliance for Retail Energy Markets that the utilities have each failed to meet the burden on each to demonstrate that CAM treatment is justified. The Commission has recently made it explicit that there is a burden on utilities to make a clear showing to justify their CAM requests:

At the same time, we emphasize that IOUs must provide clear explanations of and support for their cost allocation proposals in applications and supporting testimony, to facilitate the development of a sufficient record on which to evaluate such proposals.²¹

However, neither SCE nor SDG&E have made showings in this proceeding that provide the type of clear explanation and support that the Commission has said is a necessary prerequisite to CAM application. Instead, they have merely gone through the motions of claiming that their

¹⁹ Opening Comments of Southern California Edison Company (U 338-E) on Schedule, at p. 2.

²⁰ Id, at p. 3.

²¹ Id, at p. 16

proposed procurement is to be for the benefit of all customers and thus CAM-eligible. In response, WPTF believes that certain facts are indisputable:

1. In particular, SONGS was not afforded CAM treatment while in service, and so logically, the default assumption should be that resources procured to replace it would not be CAM-eligible. SCE and SDG&E have made no attempt whatsoever to explain why this default assumption is not applicable, much less build a positive case for why the replacement resources should, counterintuitively, be afforded CAM treatment
2. Certainly if SONGS is not replaced, reliability will suffer, but preserving reliability in the wake of a plant closure does not meet the statutory standard for CAM, which says that the procurement must be for reliability that benefits all, and is fair to all.
3. To label this Track 4 procurement as CAM eligible is tantamount to saying that all procurement should be CAM because all generation contributes in some way to reliability.
4. The CAM-related statute is simply not that broad, as it clearly contemplates that CAM is not to be universally applied. Therefore the Commission must turn much needed attention not just to when CAM does apply, but also to when it does NOT apply, which surely is the case with this Track 4 procurement.²²
5. If the Commission decides that new generation is needed to replace SONGS, then the utilities are obligated to procure it and their respective bundled customers to pay for it.

In conclusion, by any measure, the SONGS closure has created a reliability need that SCE and SDG&E alone must address on behalf of their respective *bundled customers*. There is simply no way to justify applying CAM to all SONGS replacement costs, because the utilities have neither established a reliability nexus for SONGS that meets the statutory requirements nor made the type of showing necessary to justify CAM treatment.

²² See Public Utilities Code Section 365.1.

IV. Conclusion

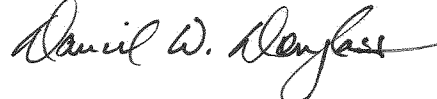
WPTF reiterates the recommendations made above that:

1. Subject to the caveats and safeguards recommended in its opening testimony and opening brief, WPTF does not oppose the SCE Contingent Resources Strategy. WPTF takes no position on the amounts of the proposed SDG&E procurement but offers certain other recommendations concerning the utility's plans.
2. Rather than mandating that any procurement authorization be made solely for preferred resources, the Commission should mandate an all-resource RFO. Since the Commission has yet to determine how preferred resources should count towards local capacity requirements, it should provide guidance to the utilities on this topic.
3. WPTF believes that an all-resource RFO is preferable for securing the Track 4 Option Contracts proposed by SCE, in which all parties with credible proposals can participate.
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6. The procurement approved here should not in any way be deemed to undermine the previously-litigated and Commission-approved principle that SCE project development costs may not be recovered from ratepayers if the development leads to new UOG.
7. The Commission should make it explicitly clear that the SCE contingency plans will not be permitted to be converted at a later date into new UOG. This can be accomplished by setting forth explicit criteria pursuant to which the Option Contracts can and will be terminated, and explicit criteria pursuant to which the sites established pursuant to the Contingent Site Development will be made available to prospective developers.

8. The utilities' respective requests for CAM treatment for their planned procurement should be denied on the grounds that each has failed to make the necessary showing to justify its application.

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

Respectfully submitted,



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