

**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
COGENERATION ASSOCIATION OF CALIFORNIA AND
THE ENERGY PRODUCERS AND USERS COALITION**

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Procurement authorized by the Commission should explicitly embrace established state goals and objectives regarding preferred resources. This means that the Commission should implement procurement through targeted RFOs limited to preferred resources. The Commission should reject misleading recommendations that a solely price-based, least cost/best fit procurement standard is appropriate or consistent with express state policies. Procurement through an all-source RFO bid process relying upon this standard fails to uphold such policies, particularly with regard to the loading order for preferred resources. Adoption of an all-source RFO process violates not only the loading order, but also statutory policy directives as well as procurement standards established by the Commission's decisions.

I. A Significant Pool of Preferred Resources is Available to Meet Local Capacity Requirements

As described in detail in CAC/EPUC's opening brief, this Commission has identified in its Track I decision significant preferred resources available in the LA Basin. The procurement authorized in Track I was calculated based on the assumption that

those identified incremental resources would be procured. This fact was also identified by the Sierra Club,¹ EDF² and Vote Solar³ in their opening briefs. Both to ensure full implementation of its prior orders and to require compliance with the loading order, the Commission should require that SCE first complete procurement of those resources before granting any authorization for additional procurement.

SCE testified it has taken no action to procure the 1000 MW of preferred resources identified in the Track I decision.⁴ SCE should not be allowed to issue an all-source RFO until it has fully procured those preferred resources through more tailored, focused procurement efforts.

II. Priority for Preferred Resources is a Clear Mandate in this State

There has been a clear, consistent, united commitment in the legislature and regulatory agencies in this state to promoting preferred resources. These mandates include:

- California Public Utilities Code Section 372 (a):
“It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth.”
- Energy Action Plan II (and updates) –California’s energy supply must be: reliable, affordable, technologically advanced, environmentally sound (*i.e.* meet AB 32 goals), and safe.

These objectives in the Energy Action Plan are not a “least cost/best fit” standard and are far more refined and complex than simply evaluating generation supply solely related to electricity pricing. There are many other objectives, particularly related to

¹ Sierra Club brief, pp. 14-15.

² EDF Opening Brief, pp. 5, 7.

³ Vote Solar Opening Brief, pp. 6-8.

⁴ SCE/Cushnie, *Transcript*, p. 1998.

industrial generation supplied with private capital, that require a priority in policy superseding the utilities' least cost best fit electric generation price standard.

- The state's electric supply "loading order:"
 1. Energy efficiency and demand response
 2. Renewables and DG, *including clean and efficient CHP*
 3. Clean, efficient fossil generation
- CARB 2008 Scoping Plan's goal of 4 GW of new CHP by 2020
- Governor Jerry Brown's energy goals include:
 1. Develop 12 GW of new distributed generation
 2. Install 6.5 GW of new CHP over 20 years
- 2013 Updated Scoping Plan (draft):
Recognizes Governor Brown's Clean Energy Jobs Plan goal of 6,500 MW of additional CHP capacity by 2030, the directives of AB 1613, and the CHP Settlement

*"Despite these policy actions and incentives for CHP, significant installation barriers for CHP systems still remain and very few new CHP systems have been installed since the Scoping Plan. Indeed, due to older system retirements, the State's overall CHP capacity may be lower now than it was in 2008. **ARB is committed to working with the CPUC and CEC to ensure the Scoping Plan goal of 4,000 MW of new CHP is achieved by 2020, and that Governor Brown's goal for 6,500 MW of additional installed capacity can be met by 2030.**"⁵*

"Looking beyond 2020, California will need to continue to transform the energy sector with wholesale changes to its current electricity and natural gas systems. Developing a near zero emission strategy for the energy sector will require efficient next-generation technology; vast new low carbon generation resources; a robust transmission and distribution infrastructure; and carbon capture, utilization, and sequestration for the remaining fossil generation."⁶

Both of these excerpts from the Scoping Plan emphasize the need for affirmative action to move from the historical business as usual in utility procurement to very explicit

⁵ *Climate Change Scoping Plan First Update* (draft), p. 30.

⁶ *Id.*, p. ES-4.

actions to create a new, low-carbon energy sector. This is particularly true for CHP where regulatory action is necessary to remove barriers to development.

- CEC 2013 Draft IEPR:

“The Combined Heat and Power: 2011-2030 Market Assessment identified 8,518 MW of installed CHP at the end of 2011 and indicated that cumulative market penetration for new CHP in 2030 varies between 1,888 MW and 6,108 MW. Existing capacity has decreased by roughly 330 MW with the closure of some CHP facilities that used coal or petroleum coke, as well as the economic closure of the Campbell’s Soup plant in Sacramento.”⁷

The Commission should continue its historical commitment to preferred resources by ensuring in this docket that the utilities first procure all available and previously identified preferred resources.

III. All-Source RFO Violates All of those Mandates

SCE testified that it would use an all-source RFO to implement any authorization obtained in this track.⁸ All resources, including preferred resources, would have to compete in such RFO on a least-cost/best fit basis. Such an approach is fundamentally inconsistent with the promotion of preferred resources. One of the reasons for identifying them as “preferred” is that such resources provide benefits other than lower costs. Historically, the IOUs did not prioritize such non-cost benefits, and did not voluntarily procure the preferred resources. The standard for renewable resources, for instance, would not be achieved by relying on the market. Similarly, the promotion of CHP required PURPA because utilities otherwise chose to avoid the competition.

If the Commission is to remain faithful to its mandates, it must direct the utilities to use targeted RFOs such as a CHP RFO to procure the authorized amounts.

⁷ CEC 2013 Draft IEPR, p. 172.

⁸ SCE/Cushnie, *Transcript*, p. 1961.

Expressing the preference for certain resources without enforcing compliance is not an effective procurement policy.

IV. Conclusion

The Commission should ensure that the preferred resources identified in the Track I decision are fully procured before authorizing any additional procurement in this track. If the Commission finds, however, that some authorization should be granted in this track, it should direct that the utilities use RFOs that are targeted to preferred resources. An all-source RFO as proposed by SCE and IEP abandons the commitment to preferred resources and ensures that the loading order is eviscerated. Proposed findings of fact and conclusions of law are attached.

Respectfully submitted,



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PROPOSED FINDINGS OF FACT

1. The Commission found in D.13-02-013, issued in Track I of this docket, that there were significant amounts of uncommitted combined heat and power, energy efficiency, and demand response that should be modeled to reduce local capacity requirements. The Commission held that the calculation of need should be reduced by 1000 MW to account for this undercounted resource availability.
2. Those resources identified in D.13-02-013 have not been procured, and modeling of residual need by the CAISO and SCE does not assume their procurement.

PROPOSED CONCLUSIONS OF LAW

1. The resources identified in D.13-02-013 should be procured first before any residual need is calculated or procurement authorization granted in this track. That includes the 1000 MW of uncommitted, undercounted preferred resources.
2. Requiring the procurement of those uncommitted preferred resources would be consistent with the loading order adopted by this Commission.
3. Procurement of preferred resources should be accomplished through RFOs or bilateral negotiations specifically targeted at those resources rather than an all-source RFO.