

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)

**THE OFFICE OF RATEPAYER ADVOCATES'
COMMENTS ON PROPOSED DECISION MODIFYING
LONG-TERM PROCUREMENT PLANNING RULES**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practices and Procedure of the California Public Utilities Commission (CPUC or Commission), the Office of Ratepayer Advocates (ORA) submits these comments on Administrative Law Judge (ALJ) David M. Gamson's January 28, 2014 Proposed Decision Modifying Long-Term Procurement Planning Rules (Proposed Decision or PD). The PD makes several changes to the rules for utility procurement of electricity in California, which are contained in the Commission's Procurement Policy Manual, last updated June 2, 2010.¹

ORA generally supports the PD, but recommends clarifying that the procedure for implementing changes to filing requirements related to the utilities' ² Energy Resource Recovery Accounts (ERRA).³

II. DISCUSSION

A. **The Commission should clarify the procedure for implementing changes to ERRA filing requirements.**

ORA recommended several changes to the utilities' ERRA filing requirements designed to make ORA's review of the filings more efficient, including standardizing the quarterly compliance reporting (QCR) template, requiring each of the utilities to submit a contract amendment report in its annual ERRA compliance application, and requiring an independent process evaluation of each utilities least-cost dispatch (LCD) methods, procedures, documentation, modeling software, and model assumptions.⁴ The PD declines to adopt any specific "changes to content or timing" of ERRA filings but recognizes the potential to enhance the usefulness of ERRA filing requirements to "eliminate redundant reporting, and to create

¹ PD, p. 4.

² ORA's PD comments refer collectively to Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company as utilities.

³ ORA also recommends clarifying the proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs to implement the PD's requirement that "any non-disclosure agreement that the utility requires an RFO participant to sign must not bar the participant from reporting such concerns, nor may a utility arbitrarily reject the offer of a participant that engages in such a discussion with appropriate officials." PD, pp. 24-25.

⁴ The Division of Ratepayer Advocates' Comments in Response to Administrative Law Judge's Ruling Seeking Comment on Track III Rules Issues, April 26, 2013, pp. 18-20.

guidelines that enable consistency across the utility QCR submissions.”⁵ The PD therefore directs Energy Division to

“begin investigating opportunities to understand and potentially reduce the QCR reporting to just the most useful elements, to eliminate redundant reporting, and to create guidelines that enable consistency across the utility QCR submissions.”⁶

The PD proposes a cooperative process that will occur within the next 90 days, resulting in a QCR Guide similar to the guide that is used for Resource Adequacy Reporting.⁷

“The process should occur within the next 90 days, be cooperative, and create a QCR guide similar to the guide for RA reporting. We require the utilities to devote a portion of an upcoming [procurement review group] PRG meeting to this task, by discussing the information they currently submit in the QCRs with PRG members, describing why the data is submitted (particularly data that is also available online or data that is submitted pursuant to other data requests) and to ensure that PRG members have had a chance to comment on the content and format of the QCRs for their purposes as PRG members.”⁸

ORA supports initiating a process to revise the QCRs and develop a QCR Guide, but recommends modifying and clarifying the PD’s process to allow stakeholder participation and establish a deadline for Commission approval of the QCR Guide. First, within 90 days of a final decision on Track III, the Energy Division should initiate a public and collaborative process such as a workshop, to propose and review the areas of the QCR that would benefit from modification and to establish a template for the QCR Guide. The PRG is not the appropriate forum to propose changes to the QCRs since PRG meetings exclude some stakeholders in order to allow for the consideration of market sensitive information. It is not necessary to exclude stakeholders from the development of the QCR guide, because participants need not discuss specific market sensitive information in developing the guide. A public forum would allow a transparent process for revising information reported in the QCRs and the development of a QCR Guide that is standardized across the three utilities. It might also allow consideration of how to aggregate information in the QCRs so that non-market participants could have access to the information

⁵ PD, p. 65.

⁶ PD, p. 60.

⁷ PD, p. 65.

⁸ PD, p. 65.

when they are submitted. Following this collaborative process, the utilities should file their proposed changes to the QCRs as a Tier 2 Advice letter.

III. CONCLUSION

The Commission should revise the PD consistent with ORA's recommendation in order to clarify the process for developing QCR guidelines.

Respectfully submitted,

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APPENDIX A
**ORA's PROPOSED CHANGES TO FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS**

Findings of Fact

8a. The Commission is concerned that the non-disclosure agreements that the IOUs require bidders in their RFOs to sign have impeded the ability of market participants to bring concerns regarding the conduct of RFOs to the attention of the Commission and other state officials.

Conclusions of Law

6a. While this Commission has no desire to be drawn into commercial negotiations regarding the prices and specific contractual terms and conditions being discussed between the IOUs and potential contractual partners, it is not in the public interest for parties participating in RFOs to be precluded from bringing more general concerns about the conduct of an ongoing or past RFO to the attention of the commission.

Ordering Paragraphs

IT IS ORDERED that:

1a. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall not include in any non-disclosure agreement that the utility requires an RFO participant to sign any provision that bars the participant from reporting general concerns about the conduct of an ongoing or past RFO to the attention of the commission (as opposed to issues related to commercial negotiations regarding the prices and specific contractual terms and conditions being discussed between the IOUs and potential contractual partners, nor may a utility arbitrarily reject the offer of a participant that engages in such a discussion with appropriate officials.

~~4. No later than ninety (90) days after the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company devote a portion of an upcoming Procurement Review Group meeting to creation of a quarterly compliance reporting guide similar to the guide for Resource Adequacy reporting.~~

Energy Division shall conduct a public stakeholder process that allows parties review the areas of the QCR that would benefit from modification and to establish a template for the QCR Guide. Following this collaborative process, Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall file their proposed changes to the QCRs their proposed changes to the QCRs as a Tier 2 Advice letter.