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)

PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E) REPLY COMMENTS ON TRACK 3 PROPOSED DECISION

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Parties provided lengthy comments on the *Proposed Decision Modifying Long-Term Procurement Planning Rules* ("PD") that was issued in Track 3 of this proceeding. Below, Pacific Gas and Electric Company ("PG&E") addresses comments which should either be rejected or clarified.

I. EXEMPTIONS FROM NON-BYPASSABLE CHARGES

The Alliance for Retail Energy Markets and Direct Access Customer Coalition ("AReM/DACC") mistakenly interpret the PD as exempting forecasted departing load from all stranded cost recovery charges.[1] As PG&E and San Diego Gas & Electric Company ("SDG&E") discussed in their opening comments, the PD needs to be clarified to more specifically state that the non-bypassable charge at issue is the Power Charge Indifference Amount ("PCIA"), not all non-bypassable charges.[2] Furthermore, the "exemption" would only be to incremental stranded costs committed to after a certain date (*i.e.*, the Binding Notice of Intent ("BNI") date at which the Community Choice Aggregator ("CCA") takes on a firm obligation to procure power and related services on behalf of the customers it serves), not the stranded costs that have already been committed to (in essence "freezing" the vintage of the PCIA for those customers). The PD needs to be clarified to ensure that parties such as AReM/DACC do not misinterpret the PD's scope.

Marin Clean Energy ("MCE") asserts that CCA load should be exempt from non-bypassable charges based on vaguely defined "best available information," rather than a BNI.[3]

[1] AReM/DACC Comments at pp. 1-2.

[2] PG&E Comments at pp. 2-5; SDG&E Comments at pp. 8-9.

[3] MCE Comments at pp. 2-6.

There are several problems with this argument. First, MCE's proposal is vague and will likely lead to further, protracted regulatory litigation. MCE's proposal to use "best estimates" or the "best available information" will inevitably lead to disputes about whose load departure forecast is "the best estimate." CCA representatives, such as MCE, will likely offer their own estimates, requiring the Commission to repeatedly sort through competing load estimates to determine which is "best."

Second, MCE's criticism of the BNI process is unfounded. MCE asserts that the BNI process was adopted at a "cooperative moment" between the utilities and CCAs and that, since that time, the cooperation has faded.[4] Even if this was true, which it is not, MCE fails to identify any specific flaws with the Commission-approved BNI process and fails to explain why, if it has concerns with the BNI process, it does not seek to remedy those concerns directly. As PG&E explained in its opening comments, the BNI is expressly designed to ensure that CCAs assume responsibility for forecasted departing load and that the utilities are relieved from that responsibility once the BNI is submitted. Moreover, the Commission-approved BNI process also includes an opportunity for the CCA and utility to work together to develop an agreed to forecast of departing load. Rather than using "best estimates" as MCE proposes, the PD should be modified to make clear that it is a BNI that triggers any early freeze of the PCIA vintage for any CCA customers since it is the date of the BNI that determines when a CCA has taken on the financial responsibility for those customers.

The Sierra Club and California Environmental Justice Alliance (jointly "Sierra Club") propose that the utilities be required to update their departing load forecasts annually.[5] These parties fail to provide any reasoned basis for this additional requirement. Load forecasts are updated through existing established processes, *e.g.*, the bi-annual Long-Term Procurement Plan ("LTPP") proceedings. There is no need to add a further updating process to forecasting proceedings that are already lengthy and resource consuming.

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[4] MCE Comments at p. 5.

[5] Sierra Club Comments at p. 4.

II. THE DEFINITION OF UPGRADED PLANTS

Calpine and the Western Power Trading Forum ("WPTF") propose modifying the PD's definition of "Upgraded Plants" to include "enhancements" to an existing facility.[6] This proposal creates significant ambiguity and should be rejected. It is unclear what kinds of "enhancements" would qualify and this would likely become a source of dispute during the Request for Offer ("RFO") process. Moreover, if the need is for incremental capacity, an enhancement may not be able to satisfy that need. Generators are always free to enhance their existing facilities so that their facilities are more competitive in an RFO based on improved operating characteristics. However, enhancing a facility is not the same as an upgrade or incremental capacity. This proposal should be rejected.

III. PROPOSALS REGARDING RFO EVALUATIONS

WPTF asserts that the utilities should be ordered to make bid evaluation criteria "clear and transparent."[7] WPTF's request is unclear and lacking in specifics. For PG&E, bid evaluation criteria for specific RFOs are already clearly stated in the RFO Protocols issued to potential bidders. If this is the type of information that WPTF is referring to, then there is no need to include in a final decision a requirement that is already the status quo. PG&E does not, however, publicly disclose evaluation scoring methodologies and weightings, as doing so would allow bidders to effectively to game the evaluation process and tailor their bids to obtain the highest score, rather than to provide a viable proposal. The Commission has previously determined that specific bid evaluation criteria and methodologies are confidential, and WPTF fails to provide any basis for changing that determination.[8]

The California Energy Storage Alliance ("CESA") suggests adding language that requires the utilities to "evaluate all of the costs and benefits" of a resource. This language is unnecessary and vague. CESA fails to provide any evidence that the utilities do not already consider the

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[6] Calpine Comments at p. 2; WPTF Comments at p. 3.

[7] WPTF Comments at p. 6.

[8] D.06-06-066, Appendix 1, Item VIII.B (bid evaluation criteria to be kept confidential).

appropriate criteria when they are reviewing offers in a specific RFO. Moreover, CESA's proposal is unclear as to what is intended by "all of the costs and benefits." At various times in Commission proceedings, parties have argued that RFOs should consider broad societal benefits and costs, such as alleged health benefits associated with certain technologies or the locational impact on a specific habitat or species. These types of claimed societal costs and benefits are not readily demonstrated, much less quantified. Further, any such societal benefits that can be demonstrated should not be exclusively borne by electric utility customers through their utility rates. Societal benefits should be addressed through a broader policy approach that reviews a number of cost-effective tools to address societal problems and allocates costs accordingly.

IV. COST ALLOCATION MECHANISM ("CAM") PROPOSALS

WPTF argues that resources should only be eligible for CAM treatment if the resource satisfies a "primary purpose" test (*i.e.*, if the primary purpose of the resource is for bundled customers, it is not CAM eligible).[9] This proposal completely ignores the statutory language. Section 365.1(c) does not include any requirement that the "primary purpose" of a resource be determined. Instead, the statute provides that a resource's costs will be borne by all benefitting customers if the Commission determines the resource is "needed to meet system or local reliability needs . . . ."[10] WPTF is essentially proposing to add additional CAM-eligibility requirements that are clearly beyond what the Legislature intended. Moreover, WPTF's proposal would likely result in protracted litigation as to what is the "primary purpose" of a resource.

V. PRG, REPORTING, AND QCR ISSUES

Sierra Club continues to assert that the PRG is subject to California's Bagley-Keene requirements.[11] This matter was briefed extensively in Track III of the 2010 LTPP cycle (R.10-05-006) and in comments filed in this proceeding.[12] In D.12-04-046 the Commission did not

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[9] WPTF Comments at p. 9.

[10] Cal. Pub. Util. Code § 365.1(c)(1)(2).

[11] Sierra Club Comments at p. 5.

[12] *See, e.g., Reply Brief of Pacific Gas and Electric Company on Tracks I and III*, October 3, 2011, pp. 22-24; *Pacific Gas and Electric Company's Reply Comments on Track 3 Rules Issues,* May 10, 2013, pp. 10-11.

adopt any change to the PRG framework based on Sierra Club's erroneous Bagley-Keene interpretation. Sierra Club also proposes that for each transaction entered into by a utility, it be required to report why a preferred resource was not cost effective, reliable or feasible to procure.[13] This would create a substantial burden with little benefit. The utilities already describe in significant detail in the LTPP proceedings and their Bundled Procurement Plans their efforts to procure preferred resources and their forecasts for their ability to do so. Requiring a separate report for each transaction would add a significant burden both in terms of filing and Commission review, and would provide little benefit given the substantial information the utilities already provide.

Sierra Club asserts that the purpose of the QCR revisions should be to facilitate public participation.[14] The QCR is already publicly filed and there is nothing that prevents public participation. However, Sierra Club misunderstands the purpose of the QCR process. The QCRs are not intended to provide parties yet another venue to dispute procurement policy. The Commission already has enough proceedings where procurement policy is debated. Instead, the QCR process is simply intended to confirm that the utilities have complied with their procurement authority during a specific quarter.

Respectfully submitted,

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[13] Sierra Club Comments at p. 2.

[14] Sierra Club Comments at pp. 7-8.