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)

CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE'S COMMENTS ON THE TRACK IV PROPOSED DECISION

SHANA LAZEROW
Staff Attorney
Communities for a Better Environment
1904 Franklin Street, Suite 600
Oakland, CA 94612
Telephone: (510) 302-0430
slazerow@cbecal.org

JAMES J. CORBELLI
DAVID ZIZMOR
TUDOR JONES*
CATHERINE RUCKER*
JULIA VERDI*
Environmental Law & Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105
Telephone: (415) 369-5336
Facsimile: (415) 896-2450
jcorbelli@ggu.edu, dzizmor@ggu.edu

Dated: March 3, 2014

Attorneys for California Environmental Justice Alliance

*Certified Law Students under the State Bar Rules, practicing under the direction of Supervising Attorney James Corbelli

SUBJECT INDEX

TABLE OF AUTHORITIES

Statutes

Decisions and Cases

CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE'S COMMENTS ON THE TRACK IV PROPOSED DECISION

Pursuant to Article 14 of the Commission's Rules of Practice and Procedure, the California Environmental Justice Alliance (CEJA) respectfully submits these comments on Administrative Law Judge David M. Gamson's Proposed Decision Authorizing Long-Term Procurement For Local Capacity Requirements Due To Permanent Retirement Of The San Onofre Nuclear Generation Stations (Proposed Decision or PD). Pursuant to Rule 14.3(c) these comments focus on "factual, legal or technical errors" in the Proposed Decision.

INTRODUCTION

California law recognizes that "[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California."[1] California has thus committed to mitigating the impacts of climate change by reducing greenhouse gas (GHG) emissions to 1990 levels by 2020,[2] and by reducing GHG emissions to 80 percent below 1990 levels by 2050.[3]

Making the right decision related to the retirement of the San Onofre Nuclear Generating Station (SONGS) is critical for meeting these GHG goals as well as protecting the communities that already breathe unhealthy air. In CAISO's analysis of Southern California Edison's (SCE's) local capacity needs for Track 1 of this proceeding, it forecasted that 4.25 million tons of CO_2 emissions would be added per year in the SCE area as a result of the added conventional generation it was recommending.[4] The addition of this many tons of GHGs would likely assure that California will not meet its GHG goals.

Although the PD recognizes the Commission's "statutory mandate to implement procurement-related policies to protect the environment,"[5] it fails to evaluate and consider the impact of its decision on the State's GHG goals and erroneously allows potential fossil-fuel procurement. To find a need, the PD relies on an overly conservative, improbable scenario and

[1] Cal. Health & Safety Code § 38501(a).
[2] California Assembly Bill 32, the Global Warming Solutions Act of 2006, Chapter 488 (2006).
[3] California Executive Order S-3-05.
[4] R.12-03-014, Track I, CEJA Ex. 3 (J. May Opening Testimony) at p. 3 (citing CAISO's data request response).
[5] PD, at p. 13.

assumes that many of the Commission's programs will be failures. The PD's errors can be minimized by revising the PD to find that any potential unmet need in Southern California due to the SONGS retirement can be filled with energy storage and preferred resources. Importantly, the PD already found that preferred resources can meet its projected need.

The PD further errors by inappropriately discounting preferred resources by 80-90%. This overly conservative discount is not only pessimistic; it is unsupported by the evidence of the record and is in error. When the missing resources are counted, it is clear that there is no need for any further resources. CEJA urges the Commission to revise the PD to close the door to potential fossil fuel procurement, protect the communities in Southern California, and to keep alive the State's hope of meeting its GHG goals.

DISCUSSION

I. THE PD IGNORES EVIDENCE IN THE RECORD OF RESOURCES CERTAIN OR VERY LIKELY TO EXIST IN 2022.

Under Section 1757 of the Public Utilities Code, a Commission decision must be "supported by the findings" and the findings must be "supported by substantial evidence in light of the whole record." As the California Court of Appeals recently stated:

> The 'in the light of the whole record' language means that the court reviewing the agency's decision cannot just isolate the evidence supporting the findings and call it a day, thereby disregarding other relevant evidence in the record.

Utility Reform Network v. Public Utilities Commission, 2014 WL 526411, --- Cal. Rptr. 3d --- (Feb. 5, 2014) (citing *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal. App. 3d 130, 141-42, 284 Cal. Rptr. 427). The PD asserted in several instances that the record did not contain data or analysis to determine the potential for several different resources to reduce LCR need.[6] However, a closer look at the record reveals that data and analysis were presented to quantify the impact of these various resources. The PD's failure to evaluate this information

[6] *See, e.g.,* FOF 55, PD, at pp. 35-36, PD, at p. 50.

runs afoul of the requirements articulated in Section 1757 that findings must be based on the whole record.

A. The Commission Should Modify Its Final Decision to Account for 733 MW of Energy Efficiency Which Is Certain or Very Likely to Occur.

In opening briefs, CEJA and NRDC recommended that the Commission reduce local capacity needs by 885 MW to account for energy efficiency (EE) assumptions that are reasonably expected to occur but were omitted from CAISO's assumptions.[7] In the PD, the Commission adopted one aspect of CEJA's and NRDC's recommendations: reducing CAISO's study results by 152 MW to account for a mistaken assumption in the Revised Scoping Memo.[8]

The 733 MW of energy efficiency at issue falls into two groups: 576 MW of "naturally occurring" EE savings and 157 MW of EE from updates to the Commission's Potential Study and the CEC's Demand Forecast.[9] The Commission did not make any specific reductions to account for the remaining 733 MW of EE, only stating it was "reasonable to consider this potential [energy efficiency reduction] as a directional indicator" for lower demand. As explained below, the Commission should reduce its need finding by that remaining 733 MW since it is "certain or very likely"[10] to occur.

The PD lays out a standard for evaluating whether it should make reductions to the ISO's forecasts:

> A prudent authorization should take into account reductions to the ISO forecasts which are certain or very likely, should not take into account reductions which are merely speculative, and should consider reductions which are reasonably possible as providing the basis for the range of prudency.[11]

The PD relegates all 733 MW of additional EE identified by CEJA and NRDC to the "range of prudency" category[12] because it found that the additional EE was based on a September 2013

---

[7] CEJA Opening Brief, at p. 22; NRDC Opening Brief, at p. 5.
[8] PD, at p. 62.
[9] CEJA Opening Brief, at pp. 23-24; NRDC Opening Brief, at pp. 5-7.
[10] PD, at p. 28.
[11] *Id.*
[12] *Id.*, at p. 72, Table 2 "Maximum Procurement Range" and p. 76, Table 3 "Minimum Procurement Range."

CEC draft forecast and because of concerns about the uncertainty of LCR impact.[13] Neither of these two conclusions are supported by the record.

1. 576 MW of Naturally Occurring EE Is Certain or Very Likely to Occur.

By definition, "naturally occurring" EE savings are expected to occur regardless of any program or policy.[14] The only claims of uncertainty regarding these savings were based on the supposition that the numbers were derived from a forecast that was not final. However, the 576 MW of "naturally occurring" savings do not, as the PD suggests, come from the September 2013 CEC draft forecast. Rather, they come from the CEC's *Estimates of Incremental Uncommitted Energy Savings Relative to the California Energy Demand Forecast 2012-2022*, a **final** report issued in September of 2012.[15]

Nor does the record support the PD's claim of uncertainty regarding LCR impact. The PD states that "even if there are changes to the CEC demand forecast, there is nothing in the record to show how or whether any such updates might impact LCR needs."[16] However, NRDC testified that the naturally occurring savings detailed in the report "yields 576 MW of additional *local impacts* from energy efficiency in the SONGS study area."[17] NRDC's witness, Sierra Martinez, testified that NRDC did not merely assume a megawatt for megawatt impact on LCR need. Rather, NRDC calculated LCR reduction by utilizing the same methodology used in the Revised Scoping Memo and the busbar allocation methodology of the Energy Commission.[18] This testimony was **uncontradicted**. As such, the evidence in the record shows that 576 MW of naturally occurring energy efficiency is very likely to reduce LCR need in the SONGS study area and should therefore be accounted for to reduce overall procurement.

---

[13] PD, at pp. 35-36.
[14] Ex. NRDC-1 (Martinez Opening Testimony), at p. 10.
[15] PD, at 35; Ex. NRDC-1 (Martinez Opening Testimony), at p. 10.
[16] PD, at pp. 35-36.
[17] Ex. NRDC-1 (Martinez Opening Testimony), at p. 11. (emphasis added).
[18] RT 2191-92 (Martinez, NRDC).

2. 157 MW of EE From New State and Federal Codes Should Be Included.

The EE assumptions made in the Revised Scoping Memo relied on the CEC's analysis of how much energy efficiency was incremental to its demand forecast which, in turn, relied on the Commission's 2012 energy efficiency potential study.[19] However, the EE assumptions in these documents failed to consider any savings from CEC building efficiency standards set to take effect in 2017 and 2020, as well as other State and federal EE codes and standards that will produce savings beginning in 2015.[20] In September 2013, the CEC updated its California Energy Demand 2014-2024 Preliminary Forecast to include many of the energy savings that were omitted from the 2012 studies, resulting in an increase in estimated future energy efficiency.[21] The difference between these studies results in a net change of 157 MW more of EE local area impacts.[22] The PD does not take into account this 157 MW because of the same purported lack of evidence regarding LCR impact discussed above, and because the September 2013 demand forecast underlying the numbers was a draft forecast.[23]

As with the naturally occurring EE addressed above, the 157 MW identified by CEJA and NRDC is adjusted for LCR impact.[24] While the calculation of EE based on new but already passed legislation was, unlike the "naturally occurring" calculation, based on a draft forecast, the Commission has not been hesitant to use such forecasts in the past.[25] The Commission should not ignore its own past practice and evidence in the record regarding known efficiency codes and standards with an identifiable local impact. Therefore, the final Decision should reduce overall procurement by 157 MW. The recommended changes to the PD are included in Appendix A.

---

[19] Ex. NRDC-1 (Martinez Opening Testimony), at pp. 5-7; *see also* CEJA Opening Brief, at p. 17.
[20] CEJA Opening Brief, at p. 17.
[21] *Id.*, at p. 23.
[22] CEJA Opening Brief, at p. 23; Ex. NRDC-1 (Martinez Opening Testimony), at p. 5, Table 1.
[23] PD, at pp. 35-36.
[24] CEJA Opening Brief, at p. 23; Ex. NRDC-1 (Martinez Opening Testimony), at p. 5, Table 1, and pp. 5-9.
[25] D.07-12-052 (2006 LTPP), the Commission approved the use of a draft demand forecast even though it had previously ordered the use of an older one in its Scoping Memo. *See also* D.13-02-015, at p. 49. ("We find that amounts of uncommitted energy efficiency in programs and standards already approved by this Commission and other agencies, but not yet in the demand forecast used by the ISO, should result in adjustments to demand forecasts for the purpose of authorizing LCR procurement levels.")

B. The PD Ignores Testimony Regarding Viable Transmission Solutions, Including Reactive Power Resources.

Despite substantial testimony discussing viable transmission solutions, the PD states that "[t]here is not enough information available at this time to make a specific finding that any transmission project will be able to reduce the LCR need in the SONGS service territory by 2022."[26] In support of this statement, the PD cites the fact that the 2013/14 TPP is not yet final, various approval and permit processes must occur before construction can begin, and construction can be subject to delays.[27] CEJA has argued that CAISO's draft transmission plan should be considered in this proceeding and submits that the record should be re-opened for the limited purpose of taking notice of CAISO's draft 2013-14 TPP, its recommendations, and supporting documents. Those recommendations confirm what the current record already demonstrates: several transmission projects are very likely to mitigate the effect of the SONGS retirement and reduce LCR needs in the SONGS study area by 2022. For example, CAISO approved the Mesa Loop-In project in its draft TPP and further finds that it is necessary to meet NERC standards.[28] Failing to consider this evidence that is now available would be specious. In addition to the Mesa Loop-In, the PD fails to consider evidence in the record discussing other certain or very likely transmission solutions.

1. The Imperial Valley Flow Controller Is a Very Likely Transmission Solution That Should Have Reduced LCR Need by 500 MW.

SDG&E has submitted a proposal to CAISO to install a flow control device, referred to as the Imperial Valley flow controller.[29] The purpose of this flow controller is to prevent the tripping of a special protection scheme on the CFE line, a scheme that was triggered by the N-1-1 contingency modeled by CAISO. SDG&E witness John Jontry testified that the proposal was submitted with a requested in-service date in either 2015 or 2017.[30] No party submitted

---

[26] PD, at p. 52.
[27] PD, at p. 52.
[28] *See* 2013-2014 Transmission Plan, CAISO, Feb. 3, 2014, at p. 6 (*available at* http://www.caiso.com/Documents/Draft2013-2014TransmissionPlan.pdf).
[29] RT at 1749-50 (SDG&E, Jontry).
[30] RT at 1750 (SDG&E, Jontry).

testimony or evidence that this flow controller will not be in place by 2017.

The CFE line is a 230 kV loop that goes through the Mexico, Northern Baja Mexico electric system.[31] CAISO has explained that when the Sunrise Powerlink and Southwest Powerlink lines "are lost due to electrical short circuit conditions, they must be removed from service. When this occurs, the parallel CFE transmission line must be protected from overload, which requires that it be removed from service as well. When these lines are removed, no power can flow through them."[32] CEJA presented testimony that a flow control device, placed on the U.S. side of the CFE line, would prevent the tripping of the CFE special protection scheme and keep that power flowing during the N-1-1 contingency that served as the basis for CAISO's modeling.[33] CEJA testified that the resulting reduction of LCR need in the San Diego region would be at least 500 MW.[34] This testimony was not contradicted.

The PD does not address this testimony. This project, which is far less complex and less expensive than construction of a major transmission line, is very likely to occur. It addresses a major aspect of the contingency modeled by CAISO in this proceeding and eliminates the need for 500 MW of new resources in SDG&E territory.[35] As a result, SDG&E's procurement authorization should be reduced by 500 MW.

2. 550 MVAR Static Compensators at San Onofre Is a Very Likely Transmission Solution That Should Reduce LCR Need by 300 MW.

The PD states that the record in this proceeding "shows that there are sufficient resources to provide VAR support in the SONGS study area without further action at this time."[36] However, neither of the two sources cited for this conclusion support it and there is evidence in

[31] *See* A.11-05-023, Tr. 439:12-440:3 (Strack, SDG&E) ("…effectively a 230kv loop that goes through the Mexico, Northern Baja Mexico electric system.").
[32] A.11-05-023, CAISO Reply Br. at p. 12; A.11-05-023, Tr. 624:11-24 (Sparks, CAISO). The same critical contingency was at issue in the A.11-05-023 proceeding.
[33] *See, e.g.,* Ex. CEJA-1 (May Opening Testimony), at p. 31.
[34] Ex. CEJA-1 (May Opening Testimony), at p. 31.
[35] In fact, were the Commission to consider CAISO's draft TPP, it would see that this flow controller not only was recommended but that it is considered necessary to ensure compliance with NERC and CAISO reliability standards. 2013-2014 Transmission Plan, CAISO, Feb. 3, 2014, at p. 6 (*available at* http://www.caiso.com/Documents/Draft2013-2014TransmissionPlan.pdf)
[36] PD, at p. 33.

the record that contradicts it. As ORA witness Robert Fagan noted, the "Preliminary Reliability Plan for LA Basin and San Diego, produced jointly by CAISO, the CPUC and the CEC (Draft, August 30, 2013) lists "Additional Reactive Power Support" as the first item in the Transmission" category when discussing mitigation for near-term needs. Four of the five items in that category are reactive power or voltage-related measures.[37] CAISO witness Sparks recommended that "the Commission wait to make a decision about the need for additional resources until the ISO has completed its studies of potential transmission mitigation solutions (including the need for additional reactive support)."[38]

The PD recognizes that SCE has proposed adding another 550 MVAR of reactive support at San Onofre.[39] CAISO modeled this mitigation in connection with the 2012-13 Transmission Plan and determined that it would reduce LCR need in the LA Basin by 300 MW.[40] CAISO has stated that it only approved reactive support additions at two substations out of the ones analyzed in the 2012-13 because it did not know at the time that SONGS was being permanently retired.[41] There is evidence in the record that this project, or one electrically equivalent to it, is very likely to be available to reduce LCR needs given the stated importance of reactive support and the effectiveness of the location. This evidence directly contradicts the PD's conclusion that the record lacks sufficient evidence to determine the LCR impact of additional reactive power resources.[42] At a minimum, the evidence supports a reduction in LCR need of at least 300 MW.

3. The Huntington Beach Synchronous Condensers Already Exist and Further Reduce LCR Need.

The PD does acknowledge that the Huntington Beach synchronous condensers, which

[37] Ex. ORA-3 (Fagan Reply Testimony), at pp. 15-16.
[38] Track 4 Testimony of Robert Sparks on Behalf of the California Independent System Operator Corporation (August 5, 2013) at p. 31.
[39] PD, at p. 33
[40] Ex. CEJA-2 (May Supporting Documents), at p. 56.
[41] California Independent System Operator, ISO Response to the Second Set of Data Requests Related to Track 4 of the Division of Ratepayer Advocates; California Environmental Justice Alliance; Sierra Club, CA; and Clean Coalition in Docket No. R.12-03-014, Request No. 3 (Aug. 8, 2013) ("[t]ransmission projects at two locations (vicinity of San Onofre switchyard, and Talega Substation) received the ISO Board approval as part of the least-regret transmission for the mid-term SONGS absence as part of the 2012/2013 Transmission Plan.").
[42] PD, at p. 33.

provide 280 MVAR of reactive support in a key location, are complete and in operation.[43] The PD then states: "However, while the Huntington Beach condensers are assumed by the ISO to be available in the 2018 SONGS-out assessment, they are not included in the revised scoping Memo's Track 4 2022 assumptions."[44] While the failure to include them in the revised scoping memo might be a reason for CAISO not to model such resources, it is not a reason for the Commission to ignore them. Section 3.3 of the PD states that a "prudent authorization should take into account reductions to the ISO forecasts which are certain or very likely . . . ." The Huntington Beach synchronous condensers are a certain resource – they exist now and are currently providing 280 MVAR of reactive power at a key location, thereby reducing LCR need .

CAISO has stated that the reactive support provided by the Huntington Beach condensers is needed in the event of an overlapping outage on both the Sunrise Powerlink and the Southwest Powerlink, which is the outage assumed in Track 4.[45] CAISO's 2012-2013 Transmission Plan states: "The ISO assumed that the Huntington Beach synchronous condensers will be available for the intermediate (i.e., 2018) time frame and will assume their continued use **or equivalent support**. This was identified as part of the need for the SONGS absence scenario for summer 2013."[46] CAISO repeated this position in its July 15, 2013 Workshop on Songs mitigation efforts.[47] Yet CAISO failed to model the Huntington Beach synchronous condensers for 2022 based on the speculative assumption that repowering would occur on that site.

The Commission need not accept this choice of possibility over certainty. However, if it does, it should account for the 939 MW of power that will be in place at the same location by 2021. There is no basis in the record for assuming that neither the condensers nor new generation will exist at that location in 2022. The recommended changes to the PD are included in Appendix A.

---

[43] PD, at p. 32.
[44] *Id.*
[45] California Independent System Operator, Response of the California Independent System Operator Corporation to the First Set of Data Requests Related to Track 4 of the Division of Ratepayer Advocates; California Environmental Justice Alliance; Sierra Club, CA; and Clean Coalition, Request No. 15 (July 12, 2013).
[46] Exhibit CEJA 2, at p. 26.
[47] Exhibit CEJA 2, at p. 39-40.

C. The PD Erroneously Fails to Account for Hundreds of Megawatts of DR and PV Resources That Are Very Likely to Occur.

1. The PD Undercounted Demand Response by at Least Hundreds of MWs.

The PD's treatment of DR resources in the SONGS study area is driven by an arbitrary distinction between "first contingency" demand response, defined as DR that can be called upon within 30 minutes, and "second contingency" resources. Although CAISO witnesses admit that in the future demand response programs may well fill LCR needs,[48] CAISO refuses to acknowledge that DR can have LCR value if it is not currently available within 30 minutes of the time it is called on. The PD simply accepts CAISO's characterization of LCR capacity, stating "[i]n the future, it is reasonable to expect that some amount of what is not considered 'second contingency' demand response resources can be available to mitigate the first contingency, and therefore meet LCR needs."[49] However, neither the Commission nor CAISO has ever defined LCR requirements for DR, much less defined them in such restrictive terms.[50]

Testimony in this proceeding makes clear that a 30-minute response time is not a requirement for other resources to be considered an LCR resource.[51] The PD's reliance on such an arbitrary definition of LCR, one that is not applied equally to all resources, is an inappropriate basis for relegating second contingency DR to the category of "trend indicator." However, as shown below, even accepting this definition of LCR capacity for DR programs the PD significantly undercounts DR resources in the LA Basin.

The Revised Scoping Memo projects a total of 173 MW of first contingency, or "fast response," DR to be available in the LA Basin by 2018 and 2022 respectively.[52] However, the uncontradicted evidence in the record demonstrates that the amount of existing, dispatchable fast-response DR available in the LA Basin is much higher. SCE witness Silsbee testified that

---

[48] RT at 1604:11-20, 1608 (CAISO, Millar).
[49] PD, at p. 56.
[50] The Track 1 Decision (D.13-02-015) left the definition of local capacity resource attributes to SCE and the CAISO to develop. Today, there is no adopted definition of the requirements DR resources would need to meet in order to satisfy the LCR.Enernoc, Inc. Prepared Testimony of Mona Tierney-Lloyd at p. 11.
[51] RT at 1692 (CAISO, Millar).
[52] Revised Scoping Ruling and Memo of the Assigned Commissioner and Administrative Law Judge (May 21, 2013) ("Revised Scoping Memo"), Attachment A at p. 7.

there are presently about 1,000 MW of Base Interruptible DR programs in the LA Basin and about 620 MW of DR in the smaller Western LA Basin, and that such programs have a 15 to 30 minute response time.[53] SCE studied DR resources in the Johanna-Santiago substation area in connection with its Preferred Resources scenario and determined that existing fast DR, adjusted for future service growth to 2022, amount to 620 MW.[54] SCE also projected another 283 MW of fast response DR that it believes will be available in the same area by 2022. The Johanna and Santiago substations were identified by CAISO as among the most effective locations for DR to mitigate contingencies.[55]

If the determining factor for whether a DR program qualifies as an LCR resource is that it is currently is available within 30 minutes, then the undisputed evidence shows 620 MW of such resources in the Johanna-Santiago area alone. Using that measure of LCR capacity, the PD undercounts fast response, or first contingency, DR by 447 MW. If the additional 283 MW of fast response DR projected by SCE to exist in 2022 is counted, the PD undercounts DR by 730 MW. SCE used a different methodology for determining LCR capacity.[56] SCE reduced the amount of available fast response DR by 50% to account for uncertainty of LCR capacity.[57] Based on that methodology SCE modeled 452 MW of DR in the Johanna-Santiago area. If one accepts SCE's methodology the PD still undercounts fast DR by 279 MW.

Whether one accepts the 30-minute response time as the definition of LCR capacity as the PD does, or accepts SCE's methodology, the evidence remains undisputed that far more LCR capable DR exists, and will exist in 2022 in the LA Basin than the PD acknowledges. Moreover, these DR programs are focused in the most effective locations to mitigate the contingencies at issue in this proceeding.[58] The PD's conclusion that only 173 MW of DR should be counted for

---

[53] RT at 2128-29 (SCE, Silsbee).
[54] RT at 2122-23 and 2137 (SCE, Silsbee). All DR modeled by SCE was fast response DR. RT at 2134 (SCE, Silsbee).
[55] *See* Revised Scoping Memo, Attachment A at p. 5; *see also* RT at p. 2130 (SCE, Silsbee).
[56] RT at 2121-22 (SCE, Silsbee). SCE actually found the first contingency/second contingency distinction in the Revised Scoping Memo puzzling. *Id.*
[57] RT at p. 2122 (SCE, Silsbee).
[58] *See* Revised Scoping Memo, Attachment A.

LCR purposes in the LA Basin is unsupported by the record.

The PD also ignores testimony regarding the ability of slower responding DR to reduce LCR need under the type of extreme weather conditions that form the basis for CAISO's scenarios. CAISO witness Millar testified that a slow-firing gas generation plant is considered an LCR resource despite not meeting that qualification, noting that entering into a high load period (such as the 1-in-10 weather event modeled in this proceeding) CAISO would be able to commit it in advance. He admitted, however, that the same could be true of DR programs.[59] And, as Mr. Silsbee of SCE testified, such a use reduces LCR need.[60] Simply disregarding these resources or lumping them with other resources in a "trend indicator" bucket is inconsistent with the Loading Order, Commission policy, and State environmental mandates.

2. The PD Undercounted Incremental PV by at Least 100 MW.

The Revised Scoping Memo designated 276 MW of solar PV as a second contingency resource in the SONGS study area and asked CAISO to model the most effective busbars so that the Commission could direct customer-side generation programs to those areas. CAISO did not do so. The PD states: "we have no specific data or analysis in the record to determine where solar PV will locate, or the impacts of solar PV on LCR needs."[61] However, the record is to the contrary.

SCE modeled 126 MW of rooftop PV in the Johanna/Santiago busbar area. SCE arrived at that number by surveying available rooftop space in the area and working with distribution planners to identify low-cost interconnection in the area.[62] Based on those numbers, SCE determined that 126 MW was a "reasonably aggressive" number. SCE's testimony provides specific data and analysis to determine where solar PV will locate and what the LCR impact will be. This only analyzes one of several highly effective busbar areas, and therefore it is conservative. The PD should be modified to reflect a reduction of at least 100 MW in the LA

[59] RT at 1692 (CAISO, Millar)
[60] RT at 2127 (SCE, Silsbee)("if there is an LCR need in an area, it can be met by providing LCR resources to the area. Or it can be met by reducing the load which reduces the LCR needs.")
[61] PD, at p. 63.
[62] RT at 2140-41 (SCE, Silsbee); Ex. SCE-1 (Various Witnesses Opening Testimony), at Table III-I.

Basin. The recommended changes to the PD are included in Appendix A.

D. The PD Does Not Adequately Consider Energy Storage Resources That Are Very Likely to be Available in 2022.

Pursuant to AB 2514, the Commission determined appropriate energy storage targets for the IOUs in the Energy Storage Procurement Framework and Design Program Decision: 580 MW for SCE and 165 MW for SDG&E.[63] These targets are to be procured gradually through biennial solicitations from 2014 through 2020.[64] At least 20% of these targets must be procured in the next procurement cycle, and while the IOUs may defer up to 80% of their MWs to later procurement periods,[65] they must ultimately have 100% of their respective storage targets online no later than December 31, 2024.[66] Most of this storage should be available by 2022.[67]

However, the PD concludes that only trivial percentages of these required resources will be available to meet LCR needs.[68] Although the Commission noted that it still "strongly believes" in energy storage, and confirms the intent of the decision "to jumpstart the use of energy storage resources in California[,]"[69] it only assumed that "at least between 10% and 20%" of those energy storage resources will be available.[70] Arbitrarily assuming such a small fraction of storage will be available undermines the targets set forth in the Energy Storage Decision.

The targeted storage in D.13-10-040 is intended to "reduce demand for peak electrical generation, defer or substitute for an investment in generation, transmission, or distribution assets, or improve the reliable operation of the electrical transmission or distribution grid."[71] The utilities will not be able to satisfy these requirements unless they procure storage located in areas with demand for peak power, areas where investments in generation, transmission or distribution would occur, or areas with grid reliability issues. If the IOUs locate their targeted

[63] D.10-12-007 at Appendix A, p. 2, Section 2(a).
[64] *Id.* at Appendix A, p. 5. Section 3(a).
[65] *Id.* at Appendix A, p. 3, Section 2(c).
[66] *Id.* at Appendix A, p. 1, Section 2(a).
[67] CEJA Opening Brief at pp. 35-36.
[68] PD at p. 69.
[69] *Id.* at p. 60.
[70] *Id.* at p. 69.
[71] CA Pub. Util. Code § 2835(a)(3).

storage using these guidelines, their concerns about LCR need should be allayed.[72] That fact alone justifies a much stronger assumption regarding the LCR impact of energy storage than the arbitrary 10-20% range assumed in the PD.

E. The PD Erroneously Authorizes Bilateral Contracts.

The PD erroneously authorizes the utilities to procure resources through bilateral contracts.[73] The PD reasons that SCE was allowed to procure resources with bilateral contracts in Track 1.[74] However, there are major differences between the Track 1 and Track 4 authorization. Track 1 authorized a specified minimum amount of natural gas resources whereas the Track 4 PD importantly finds that all of the need could be met with preferred and energy storage resources.[75] Bilateral contracts are not an appropriate way to meet the Track 4 need because they will not allow all available preferred and energy storage resources to be considered. Rather, bilateral contracts will target only one entity and likely one type of resource.

Bilateral contracts will also not facilitate compliance with the Loading Order and Section 454.5 of the Code, which requires that energy efficiency, demand response and renewable resources are procured before fossil fuel resources.[76] The Track 4 PD also importantly requires that all applications must demonstrate "[c]onsistency with the Loading Order, including a demonstration that it has identified each preferred resource and assessed the availability, economics, viability and effectiveness of that supply in meeting LCR need."[77] Allowing bilateral contracts could effectively negate the powerful language in the PD that requires compliance with the Loading Order and finds that preferred resources could fill the unmet need.

Track 1 also limited bilateral procurement to the narrow situations that meet the requirements of Section 454.6 of the Public Utilities Code[78] whereas the language of the Track 4 PD does not explicitly limit bilateral contracts to that situation. Rather, the PD states that:

---

[72] Ex. CESA-1 (Lin Opening Testimony).
[73] *See* PD, at p. 89.
[74] *See* PD, at p. 89, n. 190.
[75] *Compare* PD Ordering Paragraph 1 *with* Track 1 Authorization, D.13-02-015.
[76] *See* Cal. Pub. Util. Code § 454.5.
[77] PD Ordering Paragraph 8.
[78] *See* D.13-02-015, Ordering Paragraph 9.

"[SCE] and [SDG&E] are authorized to procure bilateral cost-of-service contracts to meet authorized local capacity requirements as specified in this Order, including bilateral contracts consistent with the provisions of Public Utilities Code Section 454.6."[79] Generally, allowing bilateral contracts to fit a Track 4 need may result in contracts that do not represent the best deal for ratepayers or the environment. CEJA respectfully requests that the Commission not allow SCE and SDG&E to meet any identified need through bilateral contracts by removing Ordering Paragraph 3 from its PD.

F. The PD's Discounting of Resources Lacks Support in the Record.

The PD's determination that only 10-20% of resources should be counted for lowering LCR needs is not supported by substantial evidence in the record.[80] The PD's findings must be based on competent, substantial evidence. *Utility Reform Network v. Public Utilities Commission*, 2014 WL 526411 at *9-10, --- Cal. Rptr. 3d --- (Feb. 5, 2014). Although parties did advocate for similar need values, no analysis or data supports an across the board 80-90% reduction of the efficacy of the resources. Notably, the PD does not cite any analysis or data to support its arbitrary 10-20% availability assumption.[81] Given that "there is no evidence to support the adopted figures themselves,"[82] the Commission should not rely on the arbitrary 10-20% assumption in the final decision.

CONCLUSION

For the foregoing reasons, CEJA respectfully submits that the record before the Commission demonstrates that there is no need for new resources in the SONGS study area when transmission solutions and other available resources are considered appropriately.

---

[79] *See* PD Ordering Paragraph 3.
[80] PD, at p. 69.
[81] *See* PD, at p. 69 (not citing any data or analysis).
[82] *See* D.01-09-025 (acknowledging that prior decision was not based on substantial evidence).

Dated: March 3, 2014

Respectfully submitted,

/s/ DAVID A. ZIZMOR
By: David A. Zizmor

JAMES J. CORBELLI
DAVID ZIZMOR
Environmental Law & Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105
Telephone: (415) 442-6656
Facsimile: (415) 896-2450
dzizmor@ggu.edu, jcorbelli@ggu.edu

SHANA LAZEROW
Staff Attorney
Communities for a Better Environment
1904 Franklin Street, Suite 600
Oakland, CA 94612
Telephone: (510) 302-0430
slazerow@cbecal.org

Attorneys for CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE

APPENDIX A

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS

CEJA proposes the following changes be made in the Findings of Fact, Conclusions of Law, and Ordering Paragraphs of the Proposed Decision of ALJ Gamson below.

PROPOSED FINDINGS OF FACT:

NEW FINDING OF FACT: The CEC's *Estimates of Incremental Uncommitted Energy Savings Relative to the California Energy Demand Forecast 2012-2022* (September 2012) shows 714 MW of "naturally occurring" energy efficiency in the SCE and SDG&E service territories. NRDC showed that the LCR impact of this "naturally occurring" energy efficiency in the SONGS study area is a net increase of 576 MW of energy efficiency.

NEW FINDING OF FACT: The CEC's September 2013 California Energy Demand 2014-2024 Preliminary Forecast included California and federal energy efficiency codes and standards from 2015 and beyond that were not included in the Revised Scoping Memo's assumptions.

NEW FINDING OF FACT: The difference between the energy efficiency levels used in the Revised Scoping Memo and the CEC's CED 2014-2024 Preliminary Forecast is a net change of 157 MW more local impact of energy efficiency.

NEW FINDING OF FACT: An additional 550 MVAR of reactive support at San Onofre is very likely to be constructed. CAISO found that this additional MVAR reduces LCR need by 300 MW.

NEW FINDING OF FACT: The Imperial Valley Flow Controller is very likely or certain to be constructed. Testimony demonstrates that this transmission project will reduce LCR needs by 500 MW.

NEW FINDING OF FACT: 126 MW of rooftop solar photo-voltaics in the Johanna/Santiago busbar area is very likely to be installed and reduce LCR need by that same amount.

NEW FINDING OF FACT: 903 MW of dispatchable, fast-response demand response is very likely to be available in the Western Los Angeles Basin. SCE found that this demand response reduces LCR need by 452 MW.

NEW FINDING OF FACT: Demand response resources can be considered 'first contingency' resources even if they cannot respond within thirty minutes.

REMOVE IN THEIR ENTIRETY:

- FINDING OF FACT 20
- FINDING OF FACT 45
- FINDING OF FACT 81

CHANGED FINDING OF FACT: 55. It is likely that Commission programs and the marketplace will increase the amount of solar PV in the future. ~~However, there is no specific data or analysis in the record to determine where solar PV will locate, or the impacts of solar PV on LCR needs.~~

PROPOSED CONCLUSIONS OF LAW:

NEW CONCLUSION OF LAW: It is reasonable to adjust the ISO study results by 576 MW, consistent with the CEC's and NRDC's findings on "naturally occurring" energy efficiency.

NEW CONCLUSION OF LAW: It is reasonable to adjust the ISO study results by 157 MW to reflect the impact of California and federal energy efficiency codes and standards not previously included in the Revised Scoping Memo's assumptions.

NEW CONCLUSION OF LAW: It is reasonable to assume that the 550 MVAR of reactive support of San Onofre will be constructed, and it will reduce LCR need by 300 MW.

NEW CONCLUSION OF LAW: It is reasonable to assume that the Imperial Valley Flow Controller will be constructed, and it will reduce LCR needs by 500 MW.

NEW CONCLUSION OF LAW: It is reasonable to assume the installation of at least 100 MW of rooftop solar photo-voltaics in the Johanna/Santiago busbar area, and that it will reduce LCR need by at least that amount.

NEW CONCLUSION OF LAW: It is reasonable to assume that the 903 MW of dispatchable, fast-response demand response will be available and will reduce LCR need by 452 MW.

REMOVE IN THEIR ENTIRETY:

- CONCLUSION OF LAW 24
- CONCLUSION OF LAW 35
- CONCLUSION OF LAW 36
- CONCLUSION OF LAW 39
- CONCLUSION OF LAW 43

PROPOSED ORDERING PARAGRAPHS:

REMOVE IN THEIR ENTIRETY:

- ORDERING PARAGRAPH 1
- ORDERING PARAGRAPH 2
- ORDERING PARAGRAPH 3