

**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)

**OPENING COMMENTS OF MARIN CLEAN ENERGY
ON TRACK 4 PROPOSED DECISION AUTHORIZING LONG-TERM PROCUREMENT
FOR LOCAL CAPACITY REQUIREMENTS DUE TO PERMANENT RETIREMENT OF
THE SAN ONOFRE NUCLEAR GENERATIONS STATIONS**

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March 3, 2014

SUBJECT INDEX

1. The Commission should reserve the option to evaluate the fairness and equitable treatment of CAM allocation upon CCA customers.
2. The Commission should also reserve the right to evaluate the fairness and equitable treatment of any procurement receiving CAM allocation authorized as a result of the Decision, particularly should any communities take steps to form CCAs within the affected service territories.
3. MCE supports the Commission's conclusion that PG&E's recommendations carry a significant risk of over-procurement and would grant unreasonable latitude to utilities.
4. Any request by PG&E to receive similar CAM treatment or procurement following the unforeseen retirement of Diablo Canyon facilities should receive scrutiny from both CAISO and the Commission.
5. The Motions to Strike MCE's Opening Brief should be denied.

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I. INTRODUCTION

These opening comments of Marin Clean Energy (“MCE”) on Track 4 Proposed Decision Authorizing Long -Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generations Stations (PD) is submitted in accordance with Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure. The PD was issued on February 11, 2014; thus, these comments are timely filed.

MCE is supportive of the PD, particularly the provisions critical of over-procurement by the investor-owned utilities (IOUs). However, MCE also recommends the Commission should indicate its intention to examine the effect of the Cost Allocation Mechanism (CAM) on Community Choice Aggregator (CCA) customers in the future, set forth the Decision in the instant proceeding does not set precedent for any future retirement of nuclear facilities in California, and deny the Motions to Strike MCE’s Opening Brief.

II. THE COMMISSION SHOULD RESERVE THE RIGHT TO ADDRESS THE EFFECT OF CAM ON CCA CUSTOMERS IN A SUBSEQUENT PROCEEDING

In its analysis of whether the resource procurement authorized by the Commission in this Track of the proceeding should receive CAM treatment, the Commission indicates:

Section 365.1(c)(2)(A) -(B) holds that in instances when the Commission determines that new generation is needed to meet local or system area reliability needs for the benefit of all customers in the IOU's service area, the net capacity costs for the new capacity shall be allocated in a fair and equitable manner to all benefiting customers, including DA, CCA, and bundled load.¹

MCE supports the Commission's analysis; however, the Commission has failed to examine whether CAM allocation is "fair and equitable" to CCA customers given the unique position of CCAs as Load Serving Entities (LSEs) that procures on a long-term basis and brings new capacity resources online. Although the Commission possibly did not examine this issue due to an absence of CCAs in Southern California, MCE recommends the Commission reserve the option to evaluate the fairness and equitable treatment of CAM allocation upon CCA customers generally. MCE also recommends that the Commission reserve the right to evaluate the fairness and equitable treatment of any procurement receiving CAM allocation authorized as a result of the Decision, particularly should any communities take steps to form CCAs within the affected service territories.

III. MCE SUPPORTS THE COMMISSION'S CONCLUSION THAT "PG& E'S RECOMMENDATIONS CARRY A SIGNIFICANT RISK OF OVER-PROCUREMENT"²

MCE is supportive of the Commission's conclusion, "While the procurement objectives of utilities are often aligned with the public interest..., utilities may also have objectives (e.g.,

¹ PD at 116.

² *Id.* at 66.

additions to rate base, competitive concerns) that differ from the public interest. Such divergent interests may result in higher ratepayer costs than with more close regulation.”³

In the instant proceeding, PG&E’s recommendations “carry a significant risk of over-procurement” and would “grant [unreasonable] latitude to utilities.”⁴ MCE commends the Commission’s skepticism of over-procurement by the utilities and PG&E in particular.

Therefore, MCE is also supportive of the Commission’s directive for SDG&E to submit its procurement plan to Energy Division for review and approval.⁵ Although the capacity shortage in Southern California must be addressed, the Commission should not allow any “rubber stamping” of procurement plans which could leave to over-procurement by the IOUs and higher costs for ratepayers.

IV. THE COMMISSION SHOULD INDICATE THAT THIS DECISION DOES NOT SET PRECEDENT FOR PG&E’S NUCLEAR FACILITY IN DIABLO CANYON

Given the unique geographic position of SONGS and its unique capacity and ancillary services functions, MCE requests the Commission clarify that any decision made in this proceeding will not affect future analysis should PG&E’s Diablo Canyon retire due to unforeseen circumstances. CAISO’s Local Capacity Requirements study applied uniquely to SONGS and the Commission is basing its decision for resource procurement and CAM treatment of resources upon that study. Any request by PG&E to receive similar CAM treatment or procurement following the unforeseen retirement of Diablo Canyon facilities should receive similar scrutiny from both CAISO and the Commission.

³ *Id.* at 67.

⁴ *Id.*

⁵ *Id.* at 109.

V. MCE’S OPENING BRIEF WAS SUMMARILY STRUCK WITHOUT CONSIDERATION FOR ITS ARGUMENTS

MCE strenuously objects to the Commission’s characterization that MCE’s briefing “wastes the time and resource of both parties and Commission staff.”⁶ Portions of MCE’s Brief that were struck addressed the evolution of the CAM within Commission precedent and statute. With its decision to grant the IOUs’ motions to strike, the Commission has determined that continued analysis and information on the development of CAM is not pertinent to one of the single largest authorizations of CAM in the history of the state.

Similarly, the Commission discounts information on how resources receiving CAM treatment affect CCAs. Thus, the Commission effectively ignores the needs of existing, pending, and future CCA customers from a large number of communities within the state. Without addressing CCA issues in this proceeding and setting forth no venue in which CCA issues may be considered, the Commission demonstrates an unwillingness to consider the CCA perspective within its decisions and analysis, thereby silencing CCA customers.

MCE urges the Commission to reconsider its decision granting the IOUs’ Motions to Strike portions of its Opening Brief and further urges the Commission to set forth a venue in which CCA issues relating to CAM can be addressed. The Commission can no longer deny its responsibility to curtail procurement process abuses affecting CCA customers.

VI. CONCLUSION

MCE thanks the Commission, ALJ Gamson and Commissioner Florio for their attention to the issues discussed herein.

⁶ *Id.* at 19.

Respectfully submitted,

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APPENDIX A

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

[New FOF] The Commission has not considered issues pertaining to community choice aggregators stemming from the use of the cost allocation mechanism. The Commission acknowledge that the authorizations in this Decision may have a significant impact on the development of CCA in the Southern California Edison and San Diego Gas & Electric service territories.

Conclusions of Law

[New COL after COL 51] 52. Further consideration of the cost allocation mechanism is required to ensure it is fair and equitable as required by Section 265.1(c)(2)(A)-(B).

55. The SCE, SDG&E and PG&E Motions to Strike the Opening Brief of Marin Energy Authority should be *denied* ~~granted because the brief is substantially concerned with matters outside of the scope of the this [sic] track of the proceeding.~~

Order

16. The Southern California Edison Company, San Diego Gas & Electric Company and Pacific Gas and Electric Company Motions to Strike the Opening Brief of Marin Energy Authority are *denied* ~~granted.~~