

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)

**REPLY COMMENTS OF ENERNOC, INC., ON
TRACK 4 (“SONGS”) PROPOSED DECISION**

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March 10, 2014

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EnerNOC, Inc. (EnerNOC) respectfully submits these Reply Comments on the Proposed Decision of Administrative Law Judge (ALJ) Gamson Authorizing Long-Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generation Stations (SONGS) in the Commission’s Long Term Procurement Plan (LTPP) Rulemaking (R.) 12-03-014 (“Track 4 Proposed Decision”). These Reply Comments are timely filed and served pursuant to Article 14 of the Commission’s Rules of Practice and Procedure and the instructions accompanying the Track 4 Proposed Decision.

**I.
THE OPENING COMMENTS REFLECT THE
STRENGTH OF THE TRACK 4 PROPOSED DECISION.**

Opening Comments on the Track 4 Proposed Decision were submitted by more than 26 parties, including EnerNOC. These parties represented broad and diverse interests, from the utilities (Southern California Edison Company (SCE) and San Diego Gas and Electric Company (SDG&E)) to the California Independent System Operator (CAISO), local municipalities, ratepayer advocates, environmental organizations, and associations and private companies representing varied energy resources, including demand response and storage. A review of these Comments illustrates the difficult faced and successfully managed by Assigned ALJ Gamson in offering a Proposed Decision that fairly balances these interests, the record, and law to result in

outcomes and directions consistent with this Commission's reliability, ratepayer, and clean energy goals.

EnerNOC, therefore, continues to support the adoption of the Proposed Decision, subject to the modifications requested in EnerNOC's Opening Comments, as supported by its Proposed Findings of Fact and Ordering Paragraph (Appendix A thereto). In reply here, however, EnerNOC does wish to register its objections to SCE's and SDG&E's proposals made in their Opening Comments that seek more flexibility in their authorized procurement and less reliance on preferred resources. The Commission should reject these requests and, instead, require more transparency in the submission and review of SCE's and SDG&E's Track 4 procurement plans. In particular, the Commission should require SCE and SDG&E to provide regular public updates on their progress in complying with the Commission's policy goals and orders in the Track 4 Proposed Decision and Decision (D.) 13-02-015 (Track 1). EnerNOC also supports SDG&E's request for clarification that bilateral contracts not be required to be cost-of service based.

II.
SCE'S AND SDG&E'S REQUESTS TO ELIMINATE PRESCRIBED PREFERRED RESOURCE PROCUREMENT IS WITHOUT MERIT AND MUST BE REJECTED.

As stated above, the Track 4 Proposed Decision correctly seeks to balance the divergent interests of many parties and reaches a reasonable compromise, based on the record and applicable law and policy, to determine need and the appropriate resource mix to meet that need. In particular, EnerNOC supports the proportion of new procurement authorization that must be derived from preferred resources.

Neither SDG&E nor SCE object to the finding of need in the Proposed Decision, which is largely consistent with their requested procurement authorizations.¹ However, both SDG&E and

¹ SDG&E Opening Comments on Track 4 Proposed Decision (PD), at pp. 4-6; SCE Opening Comments on Track 4 PD, at p. 2.

SCE object to their being required to meet the identified need with specific amounts of preferred resources.² Instead, SCE and SDG&E seek more flexibility as to the type of resources each procures. In this regard, SCE would like to wait until it has finished its Track 1 procurement to determine whether preferred resources were able to satisfy that initial solicitation before committing to more preferred resource solicitations.³ SDG&E states that the substantial amount of incremental preferred resources may be difficult to bring online by 2018.⁴

SCE has certainly demonstrated its commitment to preferred resources through issuance of its Track 1 RFOs, but that should not be a basis to alter the determination in the Track 4 Proposed Decision follow the policy and procurement precedent set by D.13-02-015 (Track 1), especially where the outcome of those RFOs is still unknown. While SDG&E has indicated it may be difficult to achieve the Proposed Decision’s directives, that is not a reason to allow SDG&E to be relieved of the obligation to pursue preferred resource procurement before it has even “tested the waters.” If SDG&E finds that it cannot comply with a Commission order, it certainly is well aware of procedural mechanisms to seek, and justify, relief or modification of the decision. Certainly, such “relief” should not be given in advance of a meaningful, good faith effort by SDG&E to comply with the Commission’s orders.

The preferred resources Loading Order should not be pursued only when it is convenient to do so, but, instead, on an “ongoing” basis whenever resource solicitations are undertaken.⁵ The magnitude of this resource procurement authorization is significant. The opportunity for increasing preferred resource penetration is now. In its final Track 4 decision, the Commission must ensure that it does not dilute this important policy and the associated environmental

² SDG&E Opening Comments on Track 4 PD, at pp. 6-9; SCE Opening Comments on Track 4 PD, at pp. 3-4.

³ SCE Opening Comments on Track 4 PD, at p. 4.

⁴ SDG&E Opening Comments on Track 4 PD, at p. 7.

⁵ D.13-02-015, at p. 10.

benefits for the State and should, in turn, reject SDG&E's and SCE's request for more flexibility to pursue options other than preferred resources.

**III.
GREATER TRANSPARENCY IN THE
PROCUREMENT PLANNING PROCESS IS REQUIRED.**

The procurement plans, and the progress thereto, should be made public as part of this rulemaking or the 2014 LTPP (R.13-12-010). The process, as it related to SCE's implementation of D.13-02-015 (Track 1), was opaque. As parties have invested a great deal of effort into developing the record in both Tracks 1 and 4 and contributing to the final decisions in both tracks, there should be a way of transparently determining how the IOUs are proceeding in implementing both the Track 1 and Track 4 Decisions. Other parties have made the request for greater transparency, and EnerNOC supports those requests.⁶

**IV.
SDG&E'S REQUEST TO ELIMINATE A REQUIREMENT THAT BILATERAL
CONTRACTS INCLUDE COST-OF-SERVICE PRICING IS REASONABLE.**

SDG&E asks for the Track 4 Proposed Decision to be corrected to eliminate a requirement that bilateral contracts include cost-of-service pricing.⁷ EnerNOC agrees with SDG&E that, to the best of its knowledge, neither SDG&E, nor any other party, had requested cost-of-service treatment for bilateral contracts.⁸ Further, EnerNOC agrees that such treatment is incongruous with market solicitations. As such, EnerNOC supports SDG&E's request to eliminate the requirement in the Track 4 Proposed Decision that bilateral contracts must be cost-of-service based.

⁶ CEERT Opening Comments on Track 4 PD, at pp. 11-13; Sierra Club Opening Comments on Track 4 PD, at p. 13.

⁷ SDG&E Opening Comments on Track 4 PD, at pp. 11-12.

⁸ Id.

V.
CONCLUSION

EnerNOC strongly supports adoption of the Proposed Decision, with the modifications indicated in its Opening Comments and Appendix A thereto. EnerNOC urges the Commission to adopt this reasonable outcome and reject requests to dilute the strong support for preferred resources. In addition to the modifications requested in its Opening Comments, EnerNOC also asks that the Proposed Decision be modified to provide greater transparency as to the implementation of the decision and eliminate a requirement for bilateral contracts to include cost-of-service pricing.

Respectfully submitted,

March 10, 2014

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