

**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)

**SIERRA CLUB CALIFORNIA'S REPLY COMMENTS ON THE PROPOSED
DECISION AUTHORIZING LONG-TERM PROCUREMENT FOR LOCAL CAPACITY
REQUIREMENTS DUE TO THE PERMANENT RETIREMENT OF THE SAN
ONOFRE NUCLEAR GENERATION STATION**

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Sierra Club California (“Sierra Club”) respectfully submits these reply comments on the Proposed Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to the Permanent Retirement of the San Onofre Nuclear Generation Station (“Proposed Decision” or “PD”) issued on February 11, 2014. These reply comments are timely filed and served pursuant to Rule 14.3 of the CPUC’s Rules of Practice and Procedure.

These reply comments support arguments made by several parties that preferred resource and transmission solutions are improperly undervalued in the PD, and correct misstatements in the comments of San Diego Gas & Electric (“SDG&E”), Southern California Edison (“SCE”) and NRG Energy, Inc. which encourage over-procurement of gas-fired generation resources.

ARGUMENT

I. Sierra Club Agrees with Comments by a Number of Other Parties that the PD’s Need Determination is Too High.

Sierra Club agrees with arguments made by the California Environmental Justice Alliance (“CEJA”), Natural Resources Defense Council (“NRDC”), The Vote Solar Initiative and the City of Redondo Beach that the PD’s need determination should be lowered significantly.¹ Additionally, any determined need should be met through preferred resource authorizations only and not by new gas-fired generation.² As CEJA writes in its comments, “the PD [has] already found that preferred resources can meet” the projected need.³

The PD fails to properly consider the reasonable or very likely possibility of transmission upgrades, energy efficiency, energy storage, demand response, solar PV and Living Pilot program solutions. Significantly, the PD does not account for LCR reductions from: (1) 733

¹ See, e.g., CEJA Comments; NRDC Comments, pp. 5-6; Vote Solar Initiative Comments, pp. 6-9; City of Redondo Beach Comments, pp. 4-6; see also Sierra Club Comments, p. 3-11.

² Vote Solar Initiative Comments, p. 3; City of Redondo Beach Comments, p. 3.

³ CEJA Comments, p.2.

MW of energy efficiency contributions resulting from energy efficiency codes, standards and programs which are certain or very likely to occur, if not already adopted;⁴ (2) the viable transmission solutions, including the Imperial Valley Flow Controller, the 550 MVAR Static Compensators at San Onofre, Huntington Beach Synchronous Condensers and the Mesa Loop-In;⁵ (3) energy storage resources required as a result of the Commission’s established targets and very likely, if not certain, to be available by 2022;⁶ and (4) hundreds of megawatts from DR and PV resources very likely to occur.⁷ These available LCR contributions can reduce SCE and SDG&E’s all-source authorization to zero. If not reduced to zero, any need determination should be met only with preferred resources, as the authorization of new gas-fired generation will significantly stall efforts to curb GHG emissions in the Los Angeles Basin and San Diego areas.⁸

Similarly, SDG&E’s request that the PD adopt a procurement authorization of *at least* 700 MW should be rejected.⁹ SDG&E’s argument that “uncertainty regarding the future availability of the preferred resources” justifies an authorization higher than 700 MW¹⁰ is not substantiated and unnecessarily risks over-procurement.

II. SDG&E Should Not Be Permitted to Move Forward with Early Gas-Fired Procurement and Bilateral Negotiations to Comply with Track IV Procurement.

In its comments, SDG&E requests that the PD allow it to provide “its conventional gas-fired resources portion of the procurement plan for review ahead of the full procurement plan,” very likely via bilateral negotiation.¹¹ This request is unjustified and should be denied. SDG&E’s Track IV authorizations are limited to 175 MW of preferred resources, 25 MW of energy storage, and 300-500 MW of “additional” from any resource. In procuring resources in

⁴ NRDC Comments, pp. 3-4; CEJA Comments, p. 3-5.

⁵ CEJA Comments, pp. 6-9; see also NRDC Comments, pp. 7-8.

⁶ CEJA Comments, pp. 13-14.

⁷ CEJA Comments, pp. 10-12; Vote Solar Initiative Comments, pp. 6-9; City of Redondo Beach Comments, p. 10.

⁸ CEJA Comments, pp. 1-2; City of Redondo Beach Comments, p. 3; Vote Solar Initiative Comments, p. 3.

⁹ SDG&E Comments, p. 3.

¹⁰ *Id.*, p. 6.

¹¹ SDG&E Comments, p. 9; *Id.*, p. 10.

the latter category, SDG&E is obligated to comply with the loading order and prioritize preferred resources to the extent possible in that procurement process.¹² Permitting SDG&E to procure gas-fired resources in advance of its full procurement plan will result in unilateral procurement of gas-fired generation, which is not contemplated by the PD and which will defeat the PD's explicit effort to strengthen loading order prioritization. Moreover, SDG&E's reliance on SCE's authorization in D.13-02-015 is misplaced; in that decision, SCE was specifically authorized to procure up to 1,200 MW of gas-fired resources, which is not the case for SDG&E.¹³

SDG&E should not be allowed to use bilateral contracts to fill Track IV authorizations because bilateral negotiation will likely result in contracts that do not honor compliance with the loading orders, do not ensure least costs for ratepayers, and should be avoided. SDG&E also attempts to justify early fossil-fuel procurement by arguing that it must fill need by 2018.¹⁴ This argument assumes that these resources can be procured and built in less than four years, which is contrary to the findings in D.13-02-015 and SDG&E's own position on the record that conventional gas-fired procurement would take seven to nine years.¹⁵ Similarly, NRG Energy, Inc. argues in its comments that the "the urgent need for new generation to meet LCR needs by 2018 ... justifies the authority granted by the Commission for SDG&E to negotiate bilaterally."¹⁶ This statement mischaracterizes SDG&E's need for bilateral negotiations. The case has not been made in the record that SDG&E will not be able to procure its "additional" resources, consistent with the loading order, using an all-source RFO process. Sierra Club agrees with CEJA that permitting bilateral contracts here, where no gas-fired generation is explicitly authorized to SDG&E, effectively eliminates the all-source RFO.¹⁷ Despite the potential favoritism larger all-source RFOs could show for gas-fired generation,¹⁸ they are nevertheless preferable to bilateral negotiations for purposes of expanding use of preferred resources and generally promoting compliance with the loading order.

¹² PD, pp. 13-15, 94-95, 130, 140.

¹³ Cf. D.13-02-015, pp. 2, 130-131, Ordering Paragraph 1 to PD, pp. 4, 94.

¹⁴ SDG&E Comments, p. 10.

¹⁵ D.13-02-015, p. 122, Finding of Fact 25; SDG&E Reply Brief, pp. 10-11.

¹⁶ NRG Energy, Inc. Comments, pp. 2, 10-11.

¹⁷ CEJA Comments, pp. 14-15.

¹⁸ See Sierra Club Comments, p. 12.

Additionally, the PD’s authorization to SCE to negotiate bilaterally to meet LCR need appears to be an improper blanket extension of Track I procurement processes to Track IV procurement processes. Like SDG&E, SCE has not been authorized in this PD to unilaterally procure gas-fired resource without complying with the loading order.¹⁹ Because SCE’s “additional from any resource” procurements are very likely to result in gas-fired procurements if obtained via bilateral negotiations, bilateral negotiations should not be allowed.

III. Greater Transparency is Needed in the Track IV Procurement Process.

Sierra Club agrees with comments by the Office of Ratepayer Advocates (“ORA”) and The Center for Energy Efficiency and Renewable Technologies (“CEERT”), which call for greater transparency and specificity in the Track IV procurement process because the Track I procurement process was not transparent and involved the development of a procurement plan known only to SCE and the Commission.²⁰ As proposed by ORA, the final decision should require that public copies of procurement plans be made available with an opportunity for comment.²¹

IV. Preferred Resources Procurement Must be Preserved.

Both SCE and SDG&E urge the Commission in their comments to eliminate the PD’s “pre-determination” of resource-specific mixes of procurement. The preferred resource and energy storage procurement authorizations are paramount to advancing the use of preferred resources in California, however, which could otherwise face disadvantages in larger all-source RFO procurement processes when competing against traditional gas-fired generation.²² Specifically requiring procurement of preferred resources is consistent with the utilities’ obligation to meet LCR needs in this planning process while maximizing loading order compliance.

SCE and SDG&E’s rationales for their position – that specified preferred resource procurements “undermine selection of the optimal resources to meet LCR needs and policy

¹⁹ CEJA Comments, p. 14.

²⁰ ORA Comments, pp. 7-8; CEERT Comments, pp. 7-10.

²¹ ORA Comments, p. 7.

²² See Sierra Club Comments, p. 12.

goals” and “may actually thwart efforts to transform the market for Preferred Resources”²³ – conflict with substantial evidence in the record and the approach in the Track 1 decision, and underscore exactly why this approach is needed.²⁴ In effect, both utilities reveal in their comments their discomfort with complying with the loading order.²⁵ Procurements that heavily favor gas-fired generation are likely if SCE and SDG&E are permitted discretion to procure Track IV authorizations without resource-specific mixes, and this discretion should not be acceded to given this likelihood.

CONCLUSION

For the foregoing reasons, Sierra Club respectfully requests that the Proposed Decision eliminate the use of bilateral contracts for Track IV procurement, increase transparency in the procurement planning process and reconsider the LCR needs while preserving specific procurement authorization for preferred resources.

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²³ SCE Comments, pp. 1, 3; see also SDG&E Comments, pp. 8-9 (the “imposition of additional preferred resources/energy storage procurement requirements through resource-specific procurement carve-outs would pose an unreasonable threat to service reliability and is therefore not in the public interest.”).

²⁴ See e.g., Section I, *supra* and D.13-02-015, pp. 81-83.

²⁵ SCE Comments, p. 3; SDG&E Comments, pp. 8-9.

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