

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)

**THE COGENERATION ASSOCIATION OF CALIFORNIA AND
THE ENERGY PRODUCERS AND USERS COALITION'S
REPLY COMMENTS ON PROPOSED DECISION**

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Pursuant to Rule 14.3 of the Commission Rules of Procedure, the Cogeneration Association of California¹ and the Energy Producers and Users Coalition² (the CHP Parties) provide these reply comments on the proposed *“Decision Authorizing Long-Term Procurement for Local Capacity Requirements.”* The CHP Parties reply to the opening comments of other parties that are erroneous and must be corrected on two topics. First, contrary to certain comments, the development of preferred resources should be specifically authorized, and can be relied upon to fill local capacity requirements. Second, there should not be an expansion of the use of all-source RFOs, as they will interfere with the development of a robust market for preferred resources.

¹ CAC represents the combined heat and power and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.

² EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP West Coast Products LLC, Chevron U.S.A. Inc., Phillips 66 Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

I. The Decision in This Track Should Be Consistent with the Loading Order and Promote Procurement of Preferred Resources

As the proposed decision finds, the Loading Order, giving priority to the use of preferred resources, is the policy of this Commission and must be followed in each procurement action by the utilities.³ Several parties in their opening comments sought to either discount the value of preferred resources to meet capacity needs or sought to reduce the amounts of preferred resources authorized to be procured.

For instance, NRG argued that “the Track 4 PD unduly relies on preferred resources to address local capacity requirements (LCRS) with no record as to how or when those resources could meet LCRS.”⁴ AES Southland stated that the proposed decision would “impose extremely aggressive targets for preferred resources, with little evidence that those resources are either ‘feasibly available,’ or ‘cost effective.’”⁵ IEP suggests that preferred resources “may not be able to meet local reliability needs.”⁶ Finally, SDG&E recommends that the resource carve-outs proposed in the PD be eliminated.⁷

Contrary to these arguments, there is substantial evidence on the record that there will be sufficient CHP and other preferred resources to meet the

³ “In the 2008 Energy Action Plan Update at 20, the Commission further interpreted this directive to mean that the IOUs are obligated to follow the Loading Order on an ongoing basis. Once procurement targets are achieved for preferred resources, the IOUs are not relieved of their duty to follow the Loading Order.” *Proposed Decision*, p. 14.

⁴ *Comments of NRG*, p. 2.

⁵ *Comments of AES Southland*, p. 10.

⁶ *Comments of IEP*, p. 9.

⁷ *Comments of SDG&E*, p. 6; further SDG&E argued: “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.” *Id.*, p. 9.

projected capacity requirements. In Track I of this docket, CAC and EPUC identified capacity from facilities in the LA Basin available for contracting. Additionally, the Track I decision in this case identified 1000 MW of preferred resources available in the LA Basin. That decision then directed the procurement of an additional 150 – 400 MW of preferred resources. Further, the ICF study, relied upon by the CEC in its demand forecast, found the potential for 4800 MW of CHP in the state. All of this evidence supports the finding that there is more than sufficient capacity of CHP and other preferred resources to meet the local capacity requirements while fulfilling the mandate of the Loading Order.

II. Preferred Resources Should Not be Procured Through All-Source RFOs

Relying on all-source RFOs to fill all of the local capacity requirements identified in this Track would improperly frustrate the procurement of preferred resources. Preferred resources have been designated as preferred precisely because they may not be procured in a least-cost evaluation, although they advance important environmental and societal benefits. The CHP Parties are replying in particular to the comment of NRG that the Commission should increase the all-source procurement authorizations,⁸ and WPTF's comment that bilateral contracts are inferior to an all-source RFO.⁹ The Commission imposed the Loading Order because utilities were not otherwise procuring these resources in amounts necessary to realize their full societal benefits. Rigid adherence to a least-cost criterion would interfere with fulfilling the promise of these resources.

⁸ *NRG Comments*, p. 9.

⁹ *WPTF Comments*, p. 7: "The use of bilateral negotiations does not ensure that the least cost option will be identified and selected."

A CHP facility, when judged solely on the electricity price it may offer in an RFO, may not be the least cost alternative, but it may well offer the lowest total societal cost when the total cost of the thermal energy delivered to the industrial host and the GHG emissions are also considered.

The Commission should steadfastly maintain its commitment to the Loading Order, and maintain the specific authorizations for procurement of CHP and other preferred resources contained in the proposed decision.

Respectfully submitted,

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