

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 THE  
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES ON  
TRACK 4 (SONGS) PROPOSED DECISION**

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The Center for Energy Efficiency and Renewable Technologies (CEERT) 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.**

**OPENING COMMENTS DEMONSTRATE THE IMPORTANCE OF THE  
COMMISSION ACHIEVING TRANSPARENCY IN THE PROCUREMENT PLANNING  
PROCESS AND MAINTAINING A STRONG COMMITMENT TO  
PREFERRED RESOURCE PROCUREMENT IN ITS FINAL TRACK 4 DECISION.**

CEERT continues to strongly support the Track 4 Proposed Decision’s determination that the identified Track 4 need is to be met based on “buckets” of procurement that include “preferred resources (such as renewable power, demand response resources and energy efficiency)” and energy storage.<sup>1</sup> As detailed in CEERT’s Opening Comments, this approach is particularly important to ensure that Southern California Edison Company (SCE) and San Diego Gas and Electric Company (SDG&E) actually procure resources in a manner that follows and complies with the “clarified” Loading Order.<sup>2</sup>

Unfortunately, in their Opening Comments, both SCE and SDG&E attempt to change this core aspect of the Proposed Decision by asking the Commission to “eliminate” what SDG&E

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<sup>1</sup> Proposed Decision, at p. 2.

<sup>2</sup> Proposed Decision, at pp. 1-2; CEERT Opening Comments, at pp. 1-2.

refers to as the Proposed Decision’s “carve-outs for specific resource types” or “not [to] predetermine the mix of procurement to occur.”<sup>3</sup> SCE and SDG&E even go further to ask that their “flexibility in resource procurement” be increased.<sup>4</sup> SCE states that the “onus” to “maximize the procurement of Preferred Resources” through its Local Capacity Requirements (LCR) Request for Offers (RFO) can be put on SCE through “other means, subject to the Commission’s oversight and measured trade-offs between policy objectives.”<sup>5</sup>

The problem with this request is that there is *no evidence* available today that suggests that SCE’s Track 1 RFO (the only LTPP LCR RFO that has been launched to date) has been successful at all in procuring preferred resources consistent with the Track 1 Decision (D.) 13-02-015. No stakeholder ever had the opportunity to see or review SCE’s “procurement plan” to meet Track 1 need, which was submitted and approved in confidence with Energy Division only, and no contracts signed pursuant to that RFO are due to be filed before issuance of the Track 4 Proposed Decision. In fact, the application filing date is expected to be some time in September 2014. This process also did *not* set forth *any* “Commission oversight” that would suggest that SCE has any incentive to make sure that its Track 1 RFO yields expected results.

This issue is compounded by the failure of the current Track 4 Proposed Decision to improve the transparency of this process at all. While SDG&E is given a “list” of “procurement plan requirements” (Attachment B to the Track 4 Proposed Decision), the “process” for SDG&E submitting and following its plan remains veiled in the same confidential treatment as SCE’s Track 1 RFOs. SCE is simply allowed to “extend” its Track 1 RFO process to meet its Track 4 need. In doing so, the Track 4 Proposed Decision does *not* identify any Commission oversight or update process that would inform all stakeholders that these utilities are on target for meeting the procurement buckets or obligations of either D.13-02-015 or the Track 4 Proposed Decision.

This approach is particularly problematic where SDG&E did *not* include preferred resources or storage in its proposed Track 4 “all-source” RFO *and* now asks for the Track 4 Proposed Decision to “eliminate” any obligation to even issue an RFO to procure preferred resources. There is simply no proof that supports SDG&E’s claim that its “procurement of

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<sup>3</sup> SDG&E Opening Comments, at p. 6; SCE Opening Comments, at p. 2.

<sup>4</sup> SCE Opening Comments, at p. 3.

<sup>5</sup> SCE Opening Comments, at p. 1-2.

preferred resources..through the existing dedicated proceedings” will yield or result in the same level of preferred resources procurement expected specifically to meet its Track 4 need.<sup>6</sup>

Right now, stakeholders – from ratepayer advocates to environmental organizations to preferred resource providers – need *confidence* that the procurement authorization given to SCE and SDG&E to meet their LCR needs *will result* in the procurement of preferred resources necessary for “advancing California's policy of fossil fuel reduction,” which “demand[s] strict compliance with the Loading Order.”<sup>7</sup> As stated in CEERT’s Opening Comments:

“Yet, the [Track 4] Proposed Decision itself runs afoul of failing to follow its own advice on the need to protect the public interest through ‘close regulation.’.... [T]he Proposed Decision continues to adhere to a ‘procurement process’ for SCE and SDG&E that is not transparent and may not properly match resources to the identified need. This latter issue, in particular, puts at risk the ability of ‘preferred resources’ to meet that need, contrary to Commission policy and the procurement authorizations approved for Tracks 1 and 4.”<sup>8</sup>

In their Opening Comments, both the Office of Ratepayer Advocates (ORA) and Sierra Club California also call for greater transparency in the procurement planning process adopted in the Track 4 Proposed Decision.<sup>9</sup> In this regard, ORA and Sierra Club California ask the Commission to modify the decision to “require that procurement plans be disclosed publicly to the extent that they do not reveal confidential information.”<sup>10</sup> According to ORA, the “Commission should strive to make the utilities’ procurement process as transparent as possible without compromising confidential information.”<sup>11</sup> ORA, in fact, questions why SCE’s initial Track 1 procurement plan “was not shared publicly to give stakeholders the opportunity to review even though the document itself was *not* deemed confidential.”<sup>12</sup>

While ORA is “especially” concerned with “new contract structures” (“contingent (options)” contracts) that “could have potential negative impacts on ratepayers,”<sup>13</sup> ORA, like CEERT, believes it is necessary, in general, “to ensure that the LTPP and IOUs’ process remains transparent and accessible to all stakeholders.”<sup>14</sup> This step is particularly important if the Track 4

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<sup>6</sup> SDG&E Opening Comments, at p. 8.

<sup>7</sup> D.13-02-015, at p. 11.

<sup>8</sup> CEERT Opening Comments, at p. 4.

<sup>9</sup> ORA Opening Comments, at pp. 7-8; Sierra Club California Opening Comments, at p. 13.

<sup>10</sup> ORA Opening Comments, Appendix A, at p. 1. See, Sierra Club California Opening Comments, at p. 13.

<sup>11</sup> ORA Opening Comments, at p. 7.

<sup>12</sup> *Id.*; emphasis added.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

Proposed Decision continues to simply “extend” SCE’s Track 1 RFO to meet its Track 4 procurement authorization. CEERT opposed such an extension, especially where the geographic areas targeted by the Track 1 and Track 4 procurement authorizations are different and could lead to erroneous determinations on bid eligibility.<sup>15</sup>

In its Opening Comments, CEERT recommended that the Track 4 Proposed Decision be modified to adopt a stakeholder process that would permit public input on the development of RFOs for both supply-side (i.e., bulk storage) and preferred resources.<sup>16</sup> If the Commission determines that there is insufficient time to complete such a process, then, at the least, both the SDG&E Track 4 procurement plan and SCE’s Revised Track 1 procurement plan to include solicitation of Track 4 resources should be publicly posted on the Commission’s website upon the review and approval of each by Energy Division. All parties to this proceeding and the 2014 LTPP (R.13-12-010) should, in turn, be provided notice when that posting occurs. In addition, to ensure effective “oversight” of this process by the Commission, the Commission should identify a schedule of “briefings” by the utilities to report on progress to comply with those plans.

**II.**  
**MANY PARTIES UNDERSTAND THE NEED FOR APPROPRIATE  
PREFERRED RESOURCE AND TRANSMISSION ASSUMPTIONS  
IN DETERMINING SCE’S AND SDG&E’S LCR NEEDS.**

In its Opening Comments, CEERT stressed the need to either update assumptions used by CAISO and/or the utilities for their Track 4 studies and/or ensure that appropriate levels of preferred resources are included in those studies and LTPP modeling from the outset. The impact on LCR need assessments of using incorrect or stale assumptions, especially relative to preferred resources, was underscored in the Opening Comments of several parties.

In particular, the Natural Resources Defense Council (NRDC) and the California Environmental Justice Alliance (CEJA) identify errors in assumptions and modeling of energy efficiency relied upon by the Track 4 Proposed Decision that, if corrected, could further dramatically reduce the LCR need for both SCE and SDG&E.<sup>17</sup> In their Opening Comments, Sierra Club California, along with CEJA, demonstrate that the Track 4 Proposed Decision’s failure to include viable transmission upgrades (i.e., Mesa Loop-In) and its inappropriate

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<sup>15</sup> CEERT Opening Comments, at p. 10.

<sup>16</sup> CEERT Track 4 Opening Brief, at p. 54.

<sup>17</sup> NRDC Opening Comments, at pp. 2-8; CEJA Opening Comments, at pp. 3-5.

“discounting” of “preferred resources, energy storage and transmission solutions” all serve to improperly inflate the LCR need.<sup>18</sup> In addition, both CEJA and EnerNOC, Inc., detail how the treatment of Demand Response, first by CAISO and then as accepted by the Track 4 Proposed Decision, including an “arbitrary distinction” between “first contingency” and “second contingency” DR, continues to suffer from a failure to clearly define the LCR requirements of DR and results in “undercounting” DR by “hundreds of MWs.”<sup>19</sup>

These factors all weigh in favor of the Commission providing greater oversight of the Tracks 1 and 4 planning and procurement processes than is now established in the Track 4 Proposed Decision. They also support CEERT’s recommendation in its Opening Comments that the Commission at least update and revise its Track 4 findings of need for each utility prior to the approval of any conventional generation procurement contracts.<sup>20</sup>

### **III. CONCLUSION**

CEERT renews its strong support for the Track 4 Proposed Decision’s ongoing commitment to the LTPP policy framework adopted in D.13-02-015. CEERT asks again, however, that certain modifications be made to the Proposed Decision, as indicated above and in CEERT’s Opening Comments and its Proposed Findings of Fact and Conclusions of Law.

Respectfully submitted,

March 10, 2014

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<sup>18</sup> Sierra Club California Opening Comments, at pp. 3-10; CEJA Opening Comments, at pp. 6-9.

<sup>19</sup> CEJA Opening Comments, at p. 10; EnerNOC Opening Comments, at pp. 2, 5-8.

<sup>20</sup> CEERT Opening Comments, at p. 7.