

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)

**NOTICE OF EX PARTE COMMUNICATIONS
BY CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE
AND SIERRA CLUB CALIFORNIA**

Pursuant to Article 8 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, the California Environmental Justice Alliance (CEJA) and Sierra Club California (Sierra Club) hereby file this notice of ex parte communications which occurred on March 10, 2014. The communications were initiated by attorneys for CEJA and Sierra Club to discuss the Track IV Proposed Decision (“PD”) in the above-referenced proceeding and all occurred at the Commission’s offices in San Francisco.

The communications occurred in three separate meetings: first with Sepideh Khosrowjah and Marcelo Poirier, advisors to Commissioner Michel Florio; then with Julie Fitch, advisor to Commissioner Carla Peterman; and finally with Nicholas Chaset, advisor to Commissioner Michael Picker. The communications were both oral and written. In each meeting, the attached handout entitled “Record References Supporting CEJA’s and Sierra Club California’s Position That The PD Overstates Need” was provided. In addition, CEJA provided courtesy copies of their Opening and Reply comments on the PD.

The first meeting was from approximately 2:05 to 2:55pm, attorneys Deborah Behles, Shana Lazerow, and David Zizmor, and Tudor Jones, a certified law student,¹ representing CEJA, and attorney Will Rostov and organizer Aura Vasquez on behalf of Sierra Club, met with Ms. Khosrowjahn and Mr. Poirier, advisors to Commissioner Florio.

Ms. Vasquez opened the meeting by discussing the concerns that community members in Southern California have about the PD, as they already suffer from poor air quality. She also discussed how community members voiced their concerns at a December Commission meeting, and were currently rallying outside of Southern California Edison (SCE) in opposition to more fossil fuel facilities being built in their communities. She added that the Commission did not hold any public meetings related to this decision in Southern California. Ms. Lazerow discussed CEJA's concern about the construction of new fossil fuel power plants and the legacy of new power generation being sited in high-impact areas in the LA Basin.

Ms. Behles explained that the PD's need is overstated, and requested that the transmission upgrades approved in the draft CAISO Transmission Plan be considered as ways to fill unmet need. Mr. Rostov supported the PD's recognition that the need could be filled with preferred resources and energy storage. He agreed with Ms. Behles that the need was overstated, but alternatively stated that if the PD adopted its proposed need determination, the Commission should take steps to ensure that preferred resources and energy storage are used to meet that need. Mr. Rostov asserted that all-source procurement from Track IV should not be paired with Track I, and Mr. Zizmor pointed out that the design of the RFO impacts the likelihood of preferred resources being chosen. Finally, Ms. Behles requested additional transparency in the procurement process generally.

¹ Mr. Jones is a certified law student under the State Bar Rules practicing under the direction of Supervising Attorney Deborah Behles.

The second meeting was from approximately 3:10 to 3:35pm, attorneys Deborah Behles, Shana Lazerow, and David Zizmor and Adam Bentley,² certified law student, representing CEJA, and attorney Will Rostov and organizer Aura Vasquez representing Sierra Club, met with Ms. Fitch, advisor to Commissioner Peterman.

Ms. Vasquez opened by expressing the need for increased opportunities for community input and participation from constituents in Southern California during the procurement planning process. She further noted that the people of Southern California want the Commission to provide better environmental protection for their communities. Ms. Vasquez also asserted that renewables should be more proactively considered in the energy portfolio.

Ms. Lazerow then discussed CEJA's concern about the construction of new fossil fuel power plants and the legacy of new power generation being sited in high-impact areas in the LA Basin. Ms. Lazerow also expressed that CEJA is concerned that the PD leaves too much room for natural gas in the portfolio standards.

Ms. Behles then stated that the need finding in the PD did not include planned projects, such as transmission upgrades approved in the draft Transmission Plan that would significantly reduce the PD's need finding. Further, Ms. Behles noted that the Commission's need determination unreasonably discounted preferred resources by 80-90%, which essentially assumes failure of the Commission's own programs. Mr. Rostov then discussed the need for preferred resources to be able to fairly compete in the process if a need is found. Mr. Rostov also noted that the proposed decision grants more need than even the IOUs requested in their own proposals.

² Mr. Bentley is a certified law student under the State Bar Rules practicing under the direction of Supervising Attorney Deborah Behles.

The final meeting took place from approximately 3:35 to 4:10pm, attorneys Deborah Behles, Shana Lazerow, and David Zizmor and Adam Bentley,³ certified law student, representing CEJA, and attorney Will Rostov and organizer Aura Vasquez representing the Sierra Club, met at the Commission's offices in San Francisco with Mr. Chaset, advisor to Commissioner Picker.

Ms. Vasquez discussed the impact the PD would have on Southern California residents who already suffer from poor air quality. She also discussed how impacted community members voiced their concerns at a December Commission meeting, and were currently rallying outside of Southern California Edison (SCE) in opposition to more fossil fuel facilities being built in their communities.

Ms. Lazerow discussed CEJA's concern about the construction of new fossil fuel power plants and the legacy of new power generation being sited in high-impact areas in the LA Basin. Ms. Behles then pointed out that the PD's need is overstated, and requested that the transmission upgrades approved in the draft CAISO Transmission Plan be considered as ways to fill unmet need.

Mr. Rostov supported the PD's recognition that the need could be filled with preferred resources and energy storage. He agreed with Ms. Behles that the need was overstated, but alternatively stated that if the PD adopted its proposed need determination, the Commission should take steps to ensure that preferred resources and energy storage were used to meet that need.

³ Mr. Bentley is a certified law student under the State Bar Rules practicing under the direction of Supervising Attorney Deborah Behles.

Dated: March 12, 2014

Respectfully submitted,

/s/ William Rostov
WILLIAM ROSTOV
TAMARA ZAKIM
Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
Telephone: (415) 217-2000
wrostov@earthjustice.org
tzakim@earthjustice.org

MATTHEW VESPA
Senior Attorney
Sierra Club
85 Second Street, 2nd Floor
San Francisco, CA 94105
Telephone: (415) 977-5753
matt.vespa@sierraclub.org

Attorneys for SIERRA CLUB CALIFORNIA

DAVID ZIZMOR
DEBORAH BEHLES
Environmental Law & Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105
Telephone: (415) 442-6656
Facsimile: (415) 896-2450
dzizmor@ggu.edu, dbehles@ggu.edu

SHANA LAZEROW
Staff Attorney
Communities for a Better Environment
1904 Franklin Street, Suite 600
Oakland, CA 94612
Telephone: (510) 302-0430
slazerow@cbeal.org

Attorneys for CALIFORNIA ENVIRONMENTAL
JUSTICE ALLIANCE

ATTACHMENT TO EX PARTE NOTICE

California Public Utilities Commission, 2012 LTPP Track 4

Record References Supporting CEJA's and Sierra Club California's Position That The PD Overstates Need

The Commission should consider the CAISO's most recent Transmission Plan before authorizing additional generation in the SONGS study area. Projects that will be in place by 2022 will reduce need in the SONGS area by as much as 2000 MW. Two of those projects, which provide 800 MW of reduction in need, were not considered by the Proposed Decision.

- CAISO published its draft Transmission Plan on February 3, 2014 and it will be finalized in March 2014. The Draft Plan recommends several projects designed to mitigate effects of the SONGS outage. (2013-14 Draft Transmission Plan pp. 5-6, 95-96 available at <http://www.caiso.com/Documents/Draft2013-2014TransmissionPlan.pdf>)
- SCE submitted the Mesa Loop-In transmission to CAISO as part of its 2013-2014 Transmission Planning Process. (Exhibit SCE-1 (SCE Opening Testimony) at p.17:4-8.) The Mesa Loop-In project would reduce generation needed in the LA Basin by at least 734 MW to as much as **1,200 MW**. (Ex. SCE-1, SCE Opening Testimony, at p. 36:15-17)
- SCE has proposed adding Static Var Compensators to a substation near San Onofre. CAISO estimates that this addition will reduce need in the LA Basin by **300 MW**. (Exhibit CEJA-1 (May Opening Testimony) at p. 7; Proposed Decision at p.33)
- SDG&E proposed adding a flow control device on the 230 kV system in Imperial Valley between the ISO system and IID and CFE." (RT 1749:5-8 (Jontry, SDG&E)). The Imperial Valley flow control would reduce LCR in San Diego need by approximately **500 MW**. (Exhibit CEJA-1 (May Opening Testimony) at p. 31) SDG&E anticipates that the device could be online sometime between 2015 and 2017. (RT 1750:9-14 (Jontry, SDG&E).
- The Proposed Decision does not account for the Imperial Valley flow controller or the San Onofre reactive power projects.

The Commission should consider the most recent energy efficiency forecasts before authorizing new generation in the SONGS study area.

- CAISO's model, on which the Proposed Decision relies, did not include "naturally occurring" energy efficiency savings identified by the CEC's *Estimates of Incremental Uncommitted Energy Savings Relative to the California Energy Demand Forecast 2012-2022*, a final report issued in September of 2012. (Ex. NRDC-1 (Martinez Opening Testimony), at p. 10)
- The naturally occurring energy efficiency savings identified by the CEC, when adjusted utilizing the methodology in the Revised Scoping Memo and the busbar allocation methodology of the CEC, "yields 576 MW of additional *local impacts* from energy efficiency in the SONGS study area." (Ex. NRDC-1 (Martinez Opening Testimony), at p. 10; RT 2191-92 (Martinez, NRDC)). 453 MW of this naturally occurring EE is located in the LA Basin, and the remaining 123 MW is located in SDG&E territory. (Ex. NRDC-1 (Martinez Opening Testimony) at p. 5)

The Proposed Decision undercounts “fast response” demand response resources in SCE territory by 447-730 MW.

- The Proposed Decision equates LCR capacity for demand response (“DR”) resources as the ability to respond within 30 minutes of notification. (Proposed Decision at p. 56)
- CAISO’s model, on which the Proposed Decision relies, included 173 MW of “fast response” demand response resources available within 30 minutes of notification. CAISO reduced LCR need by that amount. (Ex. ISO-1 (Sparks Opening Testimony), p. 6)
- The amount of “fast response” DR in the most effective areas of the West LA Basin, adjusted for projected service account growth by 2022, is 620 MW. (RT at 2128-29 (Silsbee, SCE). That is 447 MW more than accounted for by CAISO.
- SCE projects an additional 283 MW of “fast response” in the most effective areas of the West LA Basin by 2022. (RT at 2122 (Silsbee, SCE). The combination of existing and projected “fast response” DR in the LA Basin is 730 MW more than accounted for by CAISO.

The Proposed Decision undervalues an additional 4600 MW of resources identified in the record.

- The Proposed Decision arbitrarily attributes a mere 10-20% likelihood of availability to 4600 MW of potential resources identified by the parties as certain or likely to be available in 2022.

Temporary Use of Existing SPS:	588 MW
Mesa Loop-In Transmission Project	734 MW
Additional EE	733 MW
Solar PV	800 MW
Energy Storage	745 MW
“Second contingency” DR	<u>997 MW</u>
Total:	4,597 MW

- There is no evidentiary basis for this 80-90% devaluation, especially in light of evidence including:
 - The Commission’s strong support for development of resources such as EE and DR which have priority in the Loading Order;
 - The Commission’s strong support for development of Solar PV and Energy Storage;
 - The Proposed Decision’s recognition that the Mesa Loop-In is very likely to occur; and
 - The fact that the SPS is already in place and approved by WECC.