

**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)

**JOINT PETITION FOR MODIFICATION OF DECISION 14-03-004 SEEKING NOTICE
AND COMMENT OF SDG&E's PROPOSED PROCUREMENT PLANS**

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JOINT PETITION FOR MODIFICATION OF DECISION 14-03-004 SEEKING NOTICE AND COMMENT OF SDG&E'S PROPOSED PROCUREMENT PLANS

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure, Sierra Club, California Environmental Justice Alliance ("CEJA") and Vote Solar ("Joint Parties") submit the following Joint Petition for Modification of Decision 14-03-004 ("Petition"). The Petition seeks to modify D.14-03-004 to require formal notice and comment of the proposed procurement plans San Diego Gas and Electric ("SDG&E") must submit for Energy Division approval under D.14-03-004.¹ The modification is justified following discovery of multiple fatal inconsistencies of SDG&E's proposed procurement plans with the requirements of D.14-03-004. Formal notice and comment is needed to facilitate procurement plan compliance, provide transparency in procurement plan approval, and restore public confidence in the approval process for plans with significant implications for ratepayers and the environment.

DISCUSSION

I. SDG&E's Proposed Procurement Plans Should Be Served on the Service List.

SDG&E's proposed procurement plans are not confidential. The Energy Division provided the procurement plans to Sierra Club and CEJA after multiple requests including a Public Records Act request. There is no legitimate basis for other parties go through similar lengths to review the proposed plans, especially now that the plans have been disclosed to some parties in this proceeding. Accordingly, the Commission should serve the proposed plans on the service list for this proceeding.

II. SDG&E's Procurement Plans Are Inconsistent with the Requirements of D.14-03-004.

The Joint Parties represent a small subset of parties to R.12-03-014. Yet we alone have identified a number of inconsistencies with D.14-03-004. It is highly likely that given the opportunity, other parties with their own unique set of expertise and interests, will identify additional issues. Issues we have identified include, but are not limited to:

¹ D.14-03-004, Ordering Paragraph 7. The Joint Parties have not requested review of SCE's procurement plan because its Track 1 procurement plan, which it will follow for Track 4 procurement, was previously approved.

A. Any Resource Procurement Plan

1. *The Proposed Plan Fails to Require an All-Source RFO.*

Ordering Paragraph 6 of D.14-03-004 unequivocally requires that: “San Diego Gas & Electric (SDG&E) *shall* issue an all-source Request for Offers for some or all capacity authorized by this decision.”² Under Ordering Paragraph 7, the procurement plan must include “a proposed Request for Offers as required by Ordering Paragraph 6.”³ SDG&E’s procurement plans do not contemplate an all-source RFO to meet *any* of the capacity authorized by the Track 4 Decision. By definition, a preferred resource or energy storage only solicitation is not an all-source request. SDG&E’s “conventional” procurement plan calls only for bilateral procurement.

2. *The Proposed Plan Does Not Comply with the Loading Order.*

D.14-03-004 requires SDG&E to ensure that “all resources that can meet the specified requirements should be able to compete on a fair basis”⁴ and that procurement to meet the any resource authorization be “consistent to extent feasible with the Loading Order.”⁵ Ordering Paragraph 8 further provides that SDG&E must show how any contracts meet the following criteria:

Consistency with the Loading Order, including a demonstration that it has identified each preferred resource and assessed the availability, economics, viability and effectiveness of that supply in meeting LCR need; [and]

A demonstration of technological neutrality, so that no resource was arbitrarily or unfairly prevented from bidding in . . . SDG&E’s solicitation process. To the extent that the availability, viability and effectiveness of resources higher in the Loading Order are comparable to fossil-fueled resources, . . .SDG&E shall show that it has contracted with these preferred resources first.⁶

SDG&E’s plan does not meet these requirements. The plan precludes consideration of preferred resources to meet its any resource authorization. Instead, SDG&E decided unilaterally,

² D.14-03-004, at p. 144 (Ordering Paragraph 6) (emphasis added).

³ D.14-03-004, at pp. 144-45 (Ordering Paragraph 7)

⁴ D.14-03-004, at p. 112.

⁵ D.14-03-004, at p. 97.

⁶ D.14-03-004, Ordering Paragraph 8.

without even conducting a solicitation to determine what preferred resources are available, that it would fill its 600 MW any resource authorization with a bilateral contract with the Carlsbad facility. Far from demonstrating technological neutral as required under D.14-03-004, SDG&E's proposed any resource procurement plan forecloses competition and participation by clean energy solutions by predetermining the selection of a polluting, greenhouse gas intensive, fossil fuel facility.

3. *The Proposed Procurement Plan Does Not Reduce Its Authorization Request to Account for the Benefits of Recently Approved Transmission Projects.*

SDG&E's any resource plan fails to account for the benefits of recently approved transmission projects, resulting in significant over-procurement and additional unneeded burden to ratepayers. Because D.14-03-004 was approved prior to finalization of the CAISO's 2013-2014 Transmission Plan (2013-2014 TPP), potential benefits of proposed transmission improvements in lowering local capacity needs could not be ascertained with certainty at the time the Decision was issued. However, D.14-03-004 recognized that "[i]f some level of new transmission resources is identified in the 2013/2014 TPP which would reduce LCR needs in the SONGS service area by 2022 (for example, the Mesa Loop-In project), the total amount of overall procurement needed in the SONGS service area would be reduced."⁷ To accommodate this uncertainty, D.14-03-004 built in flexibility in future procurement by authorizing a minimum and maximum range in the any source procurement authorizations. In the event transmission projects that would reduce local capacity needs are approved, the Decision provided that "some combination of this would occur: a) procurement at or near the minimum levels authorized in this decision; b) less procurement or no procurement authorized in future LTPP proceedings; and c) less of a need to delay retirements of OTC plants."⁸

On March 25, 2014, CAISO's Board approved the 2013-2014 TPP. The TPP approved

⁷ D.14-03-004 at p. 116.

⁸ D.14-03-004 at pp. 116-17.

three transmission upgrades that will significantly lower LCR need in the SONGS area. The approved transmission projects include:

- ⊗ An additional 450 MVAR of dynamic reactive support at San Luis Rey, which has a proposed in-service date of June 2018, and is expected to reduce LCR need from between 100 and 200 MW;
- ⊗ An Imperial Valley Flow Controller, which has a proposed in-service date of May 2017, and is expected to reduce LCR need between 400 and 840 MW; and
- ⊗ The Mesa Loop-In Project, which has a proposed in-service date of December 2020, and is expected to reduce LCR need by 300 to 640 MW.⁹

These transmission projects, which lower LCR need between 800 – 1680 MW, are expected to cost between \$559 and \$994 million.¹⁰

SDG&E’s proposed procurement plans fail to consider these developments. To be consistent with D.14-03-004, SDG&E’s plan should consider these approved transmission projects and consider only seeking procurement at minimum authorized levels.

B. Preferred Resource Procurement Plan

1. SDG&E Does Not Commit to Soliciting At Least 200 MW of Preferred Resources.

SDG&E’s preferred resource procurement plan states SDG&E will solicit bids “up to 200 MW” even though the Track 4 Decision requires SDG&E to solicit “at least” 200 MW.¹¹

2. SDG&E Does Not Include Distributed Generation in Its Proposed Resources.

SDG&E’s proposed preferred resource plan also appears to not consider soliciting

⁹ See CAISO 2013-14 TPP at p. 108, available at <http://www.caiso.com/Documents/Board-Approved2013-2014TransmissionPlan.pdf>.

¹⁰ See CAISO 2013-14 TPP at p. 108, available at <http://www.caiso.com/Documents/Board-Approved2013-2014TransmissionPlan.pdf>.

¹¹ Compare SDG&E Preferred Resources Procurement Plan at 2 with D.14-03-004 at p. 97.

distributed generation to meet its LCR need.¹² Distributed generation is an important resource that can meet LCR needs, which should be considered. The Track 4 Decision did not leave DG out of the possible ways to meet LCR need, and thus, SDG&E should consider it here.

3. ***SDG&E Inappropriately Proposes to Subtract Other Preferred Resource Programs from the At Least 200 MW Preferred Resource Authorization. It Is Unclear Whether SDG&E Intends to Solicit Any Preferred Resources.***

In its procurement plan, SDG&E states: “SDG&E is also aware of certain preferred resource procurement programs that were not included in the CAISO Track 4 Studies” that it would potentially count toward its Track 4 preferred resource procurement obligation.¹³ As an initial matter, this statement raises serious issues about whether the Track 4 Decision relied on the best information available to make its need determination. Moreover, the Commission specifically rejected SDG&E’s proposed approach and stated in D.14-03-004 that SDG&E must procure *additional* preferred resources to meet its LCR need:

We agree that SDG&E should continue to follow the Commission’s requirements in other dockets; SDG&E already anticipates 407 MW will be procured in this manner. However, as with SCE, it is our intent that SDG&E *should also* pursue significant percentages of procurement to replace SONGS through preferred resources, energy storage and consistency with the Loading Order. . . . To the extent that SDG&E seeks to procure incremental preferred resources and energy storage (beyond those already expected to be procured elsewhere) through other procedural vehicles authorized by the Commission, it must delineate this process in its procurement plan....¹⁴

As the language above points out, although SDG&E can use other procedural vehicles for procurement, it must procure preferred resources *in addition to* what it is already procuring in other dockets. SDG&E’s plan is inconsistent with this requirement and should be rejected.

The preferred resources procurement plan also contemplates reducing preferred resource procurement by taking credit for reductions in peak demand that may be achieved through rate

¹² SDG&E Preferred Resources Procurement Plan at 9.

¹³ SDG&E Preferred Resources Procurement Plan at p. 9.

¹⁴ D.14-03-004 at pp. 96-97.

design reform.¹⁵ Because procurement is an active solicitation of resources through a solicitation process, it cannot be met through passive pricing policies. To the extent rate reform is anticipated to reduce peak demand, reduction in overall need should further reduce any resource procurement toward its minimum authorized range, not limit SDG&E's required solicitation for preferred resources and energy storage.¹⁶

III. Modification of Decision 14-03-004 Is Justified Given the Proposed Procurement Plans' Multiple Inconsistencies with the Decision's Requirements.

In briefing and comments leading up to D.14-03-004, a number of parties requested that the review of the procurement plan be a public process to facilitate development of robust procurement plans that comport with the requirements of the underlying procurement authorization.¹⁷ D.14-03-004 ultimately did not provide a process for comment on proposed procurement plans. Although procurement plans are process documents that do not contain confidential information, the Decision also did not require service of the proposed plans to the service list to facilitate stakeholder review. Accordingly, the Decision functioned to limit transparency, accountability, and the ability for parties to raise concerns in a common forum. It is now clear that these shortcomings must be rectified.

SDG&E has submitted proposed procurement plans that few parties have seen and that fall woefully short of complying with the requirements of D.14-03-14. Formal notice and

¹⁵ SDG&E Preferred Resources Procurement Plan at p. 5.

¹⁶ D.14-03-004 at pp. 116-17.

¹⁷ The Office of Ratepayer Advocates' Comments on Proposed Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generating Stations (March 3, 2014), pp. 7-8; Sierra Club California's Comments on Proposed Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to the Permanent Retirement of the San Onofre Nuclear Generation Station (March 3, 2014), p. 13; Opening Brief of the California Energy Storage Alliance on Track 4 Issues (November 25, 2013), pp. 10-13; Opening Brief of the Center For Energy Efficiency and Renewable Technologies on Track 4 (San Onofre Nuclear Generating Station) (November 25, 2013), pp. 51-55; Comments of the Center For Energy Efficiency and Renewable Technologies on Track 4 (SONGS) Proposed Decision (March 3, 2014), pp. 9-10; Reply Comments of the Center For Energy Efficiency and Renewable Technologies on Track 4 (SONGS) Proposed Decision (March 10, 2014), pp. 2-4; California Environmental Justice Alliance's Reply Comments on Track IV Proposed Decision (March 10, 2014), p. 4; Reply Comments of EnerNOC, Inc., on Track 4 ("SONGS") Proposed Decision (March 10, 2014), p. 4. *See also* California Environmental Justice Alliance's Track I Opening Brief (September 24, 2012), pp. 42-43.

comment will allow all parties to provide input based on their unique perspectives and experience on needed plan improvements to better enable Energy Division to identify and rectify inconsistencies with D.14-03-014. Formal notice and comment is also critical to restoring confidence and integrity in Commission decision-making. Parties devote extensive time and resources toward building a record in the hopes of impacting the outcome of Commission decisions. If the requirements of a Commission decision are disregarded in subsequent closed-door approval processes, the Commission sends a disturbing signal that it does not take the letter of its own decisions seriously, and that party contributions in shaping a decision are meaningless and illusory.

Because procurement plans establish the fundamental framework for future procurement, comment at this stage is critical to determining ultimate outcomes. If, as in the case of SDG&E, the procurement plan calls only for bilateral procurement of a specific fossil fuel facility, parties will have no meaningful ability to steer procurement toward other solutions at the utility application stage. Accordingly, the following modification should be made to D.14-03-004 to provide notice and comment of SDG&E's procurement plan:

Page 114: The SDG&E procurement plan shall be provided to Energy Division for review no later than 90 days after the effective date of this decision. **Prior to approval, Energy Division shall provide parties with an electronic copy of the procurement plan and allow at least 15 days for party comment. Party comments shall be served to all parties in this proceeding.** Consistent with the approved procurement plan....

Ordering Paragraph 7: No later than 90 days after the effective date of this decision, San Diego Gas & Electric (SDG&E) shall submit a procurement plan to be review and approved in writing by the Director of the Energy Division. **Prior to approval, Energy Division shall provide parties with an electronic copy of the procurement plan and allow at least 15 days for party comment. Party comments shall be served to all parties in this proceeding.** SDG&E may propose....

The inconsistencies that the Joint Parties have identified are significant and must be cured. Other parties are likely to point out additional inconsistencies. In addition to inconsistencies, other stakeholders can offer input about how to best assure that the RFO is fair for preferred resources. As CEERT stated in its comments to the Track 4 Proposed Decision:

“the input of stakeholders and industries that are producing these innovative resource and technology solutions are critical to fairly shaping RFOs that will ensure that preferred resources ‘will become reality’ in meeting future energy needs.”¹⁸

The significant benefits of allowing comment and party input far outweigh any minimal delay in approval of the proposed plans. Decision 14-03-004 did not identify need until 2022. Moreover, since the Decision was issued, highly viable transmission improvements were approved by CAISO, including the Imperial Valley Flow Controller and dynamic reactive support at San Luis Rey. These projects have in-service dates of May 2015 and June 2018 respectively, and CAISO expects these projects would collectively reduce need between 500 and 1040 MW.¹⁹ In addition, preferred resources and energy storage can be deployed rapidly if needed.

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¹⁸ Comments of the Center For Energy Efficiency and Renewable Technologies (CEERT) on Track 4 (SONGS) Proposed Decision, pp. 9-10.

¹⁹ See CAISO 2013-14 TPP at p. 108, available at <http://www.caiso.com/Documents/Board-Approved2013-2014TransmissionPlan.pdf>.

CONCLUSION

For the reasons stated above, the Joint Parties request that the Commission modify D.14-03-004 to allow for formal notice and comment related to SDG&E's proposed procurement plans.

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Respectfully submitted,

/s/

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