

**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 No. 12-03-014
(Filed March 22, 2012)

**Response of The Nevada Hydro Company
to the Petition for Expedited Modification of Decision 13-02-015**

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Dated this 23rd day of June, 2014

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Pursuant to the Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), and directives from ALJ Gamson, The Nevada Hydro Company (“Nevada Hydro”) herein submits comments on the “Petition for Expedited Modification of Decision 13-02-015” submitted on June 3, 2014 by Terra-Gen Power, LLC (“Petition”) regarding the improper implementation, by Southern California Edison (“SCE”), of the procurement process authorized in this long-term procurement (“LTTP”) proceeding.

Nevada Hydro supports the Petition as far as it goes, but notes that the Petition’s necessary focus on technical minutiae overlooks other more fundamental problems that have come into play between the directives in Decision 13-02-015 (the “Track 1 Decision”)¹ and in Decision D.14-03-004 (the “Track 4 Decision”). These problems are due to the misalignment of the mandates from AB 2514 and these Decisions on the one hand, and the Commission’s apparent willingness to allow SCE to solve the problems stemming from the loss of the San Onofre Nuclear Generating Station (“SONGS”) as it may, on the other. In Nevada Hydro’s view, SCE is working to solve the problems in their own way by selectively ignoring critical mandates from AB 2514 and from the Track 4 Decision.

As SCE is not following the procurement directives from this Commission, Nevada Hydro requests that the Commission modify a single word in Track 4 Decision in order to clearly

¹/ Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generations Stations, Decision 14-03-004 in Rulemaking 12-03-014, March 14, 2014.

require that SCE abide by the mandates of AB 2514 and the Track 4 Decision. In supporting Terra-Gen's request that the Commission intervene in SCE's procurement process, Nevada Hydro also requests that the Commission require SCE to correct its implementation before market expectations are affected, further resources are expended by bidders and commitments made by SCE to contract with resources that would otherwise not qualify if SCE were following Commission and legislative directives.

1. Introduction

Nevada Hydro was very pleased to see that the Commission, in the Track 4 Decision, is explicitly allowing advanced pumped storage ("APS") to participate in providing the solution to the reliability problems facing Southern California largely as a result of the shuttering of the SONGS. In its previous filings,² Nevada Hydro has noted that its 500 MW Lake Elsinore Advanced Pumped Storage ("LEAPS") facility (FERC Project Number P-14227) and the related Talega-Escondido/Valley-Serrano 500-kV Interconnect ("TE/VS Interconnect") are located roughly ten to twenty miles from SONGS,³ squarely in the middle of the "SONGS study area"/"LA Basin" and provide not just megawatts, but also the voltage support, other ancillary services and flexibility from within the load pocket. Nonetheless, SCE continues to ignore LEAPS.

The Petition focuses on language in the Track 1 Decision concerning "locational effectiveness factors" and Terra-Gen's belief that language in the Track 1 Decision "is susceptible to misinterpretation and that has apparently been misinterpreted by SCE to create what is in effect a new eligibility requirement for continued participation in the Track 1 solicitation."⁴ In this filing, Nevada Hydro points to a "back door" in the Track 4 Decision on which SCE seems to be relying to a slightly more insidious end: to ignore mandates in the Track 4 Decision in order to eliminate projects like LEAPS from consideration when the Commission

²/ See, for example, "Comments of The Nevada Hydro Company on Workshop Materials, Rulemaking No. 12-03-014, filed January 8, 2014.

³/ Nevada Hydro has described these projects, their permit path forward and some of the benefits the projects can provide specifically in light of the needs now identified in this proceeding in, "Reply Comments of The Nevada Hydro Company on ALJ Gamson's Policy-Related Questions Presented at the September 4, 2013 Prehearing Conference," R. 12-03-014, filed October 11, 2013.

⁴/ Petition, at Page 1

clearly wants SCE to inclusively assess as many proposed projects as feasible to meet the cost and reliability goals of this Proceeding.⁵

The Track 4 Decision contains directives to assure SCE's procurement process meets Commission objectives and protects ratepayers. If SCE had at least followed the spirit of the Decision, Nevada Hydro would have no issue. However, SCE has found a way around both the letter and spirit of the Decision by restricting the geographic boundaries for eligible resources to an area where there are insufficient Preferred Resources to meet the targets in Track 4 Decision. SCE has used this option in the same manner Terra-Gen identified in its Petition, as a "threshold screen that precludes further consideration of a resource's other attributes in the determination of the resource's value."⁶

The September 16, 2013 Assigned Commissioner/ALJ Ruling in this Docket noted that, "due to long lead times for new resources, there is an urgency to start moving toward identifying and filling any identified need as soon as possible."⁷ Nevada Hydro is concerned, therefore, that by pushing aside formal evaluation of LEAPS to fill the identified need in this proceeding, SCE is angling to ignore the elephant in the room that is LEAPS to instead select resources that are less economic to ratepayers, do less to enhance the usefulness of renewable energy resources, do less to support the grid of tomorrow and do less to reduce GHG production in the region. As the interconnection and nearly all environmental work are complete for LEAPS, with some cooperation from regulators, including this Commission, Nevada Hydro can have LEAPS operating by as soon as 2019. Nevada Hydro is therefore submitting these comments to this proceeding to alert the Commission that SCE is apparently avoiding consideration of relevant Preferred Resources like LEAPS, as the Commission directed, to the benefit of its own favored resources.

⁵ / The Track 4 Decision at P. 102 states: As discussed herein, we require SCE and SDG&E to procure MW ranges of certain types of resources. Each utility should solicit all resources as required by this decision, and may propose for approval any set of resources which can meet the LCR need in its portion of the SONGS service area consistent with the authorized resource ranges herein. Within the categories that include preferred resources, bulk energy storage and large pumped hydro facilities should not be excluded [Emphasis added.]

⁶ / Petition, at page 2.

⁷ / Assigned Commissioner and Administrative Law Judge's Ruling Regarding Track 2 and Track 4 Schedules, Rulemaking 12-03-014, September 16, 2013 P. 3.

In Section 2, below, Nevada Hydro describes how SEC has avoided evaluating LEAPS notwithstanding Commission and Legislative mandates. In Section 3, Nevada Hydro describes these mandates as they relate to LEAPS particularly. In Section 4, Nevada Hydro describes how SCE has avoided these requirements while Section 5 describes the minor modification to the Track 4 Decision required to correct this oversight.

2. SCE's procurement process has excluded LEAPS

In the Track 1 Decision, SCE was authorized to procure between 1,400 and 1,800 MW in the West LA sub-area of the LA Basin. As a result, on September 12, 2013, SCE launched the Local Capacity Requirements Request for Offers ("RFO") for incremental capacity in the West LA Basin and Moorpark Sub-Areas. Although it does not directly connect to one of the distribution substations identified in the RFO, Nevada Hydro submitted a complete and timely offer to SCE for LEAPS, noting that it connects to the 500 kV grid feeding into the area (SCE's Valley-Serrano line), and that its deliverability assessment clearly shows that it meets requirements for contributing to local reliability. Nonetheless, on January 6, 2014, Nevada Hydro was notified that, "Unfortunately, the proposal is nonconforming because the interconnection is not in the LA Basin or Moorpark area as required by the RFO."⁸ Having eliminated LEAPS on this technicality, SCE never analyzed the facility's ability to meet the requirements for acceptable resources set forth by the Commission.⁹

As a result of the Track 4 Decision, on March 21, Nevada Hydro contacted SCE,¹⁰ asking SCE to reassess its previous denial and consider LEAPS as required in this Decision. Nevada Hydro contacted SCE again by email on April 10 and on other occasions. To date, SCE has not responded to Nevada Hydro's repeated requests.

SCE has effectively eliminated LEAPS from consideration based upon its connection point and although the Track 4 Decision has mandated the proper consideration of both storage and

⁸ / Email communication from Daniel Walker of SCE to Rexford Wait of Nevada Hydro dated January 6, 2014. In a follow-up call, Mr. Wait again reminded Mr. Walker that LEAPS connects at the transmission not distribution level and that its deliverability analysis is long complete.

⁹ / These requirements are set forth in Order 8 of the Track 4 Decision, and further discussed at Footnote 22, *infra*.

¹⁰ / Nevada Hydro's email was addressed, as was required in the RFO, to LCR.RFO@sce.com and to Alan.Taylor@sedwayconsulting.com.

Preferred Resources in the LA Basin (as described below), SCE has refused to consider LEAPS under the mandates of this Decision. Further, as both the California Independent System Operator (“CAISO”) and SCE have studied this connection, reflected in the signed Large Generator Interconnection Agreement, SCE is well aware of the benefits the interconnection actually provides to their system.

3. The Mandates of AB 2514 and the Track 4 Decision clearly require SCE to consider LEAPS in its procurement process

Clearly, both AB 2514 and the Track 4 Decision require consideration of LEAPS, like all APS facilities. This section describes some of these requirements as they apply to LEAPS.

3.1. AB 2514 requires that APS be considered in this LTPP process, and SCE has not done so

Section 1(f) of AB 2514 is clear in its purpose and directive:

There are significant barriers to obtaining the benefits of energy storage systems, including inadequate evaluation of the use of energy storage to integrate renewable energy resources into the transmission and distribution grid through long-term electricity resource planning

Further, Section 2836.2(c) requires that the Commission “consider the integration of energy storage technologies with other programs, including demand-side management or other means of achieving the purposes identified in Section 2837 that will result in the most efficient use of generation resources and cost-effective energy efficient grid integration and management”. Nevada Hydro contends that this law requires that SCE cannot simply set aside consideration LEAPS; it must include LEAPS in its conclusions and decisions relative to how its procurement “will result in the most efficient use of generation resources and cost-effective energy efficient grid integration and management”.

AB 2514 grants to storage resources certain priority considerations. The Commission allocated priority to some storage resources in accordance with AB 2514 in D.13–10–040. Although APS facilities like LEAPS were carved out of that Decision, the mandates of AB 2514 still apply to APS facilities like LEAPS, acknowledged in the Track 4 Decision but ignored by SCE.

3.2. The Track 4 Decision requires SCE to consider LEAPS in its procurement process.

Clearly, and as required by AB 2514, the Track 4 Decision directed that SCE must consider APS facilities like LEAPS as a “preferred resource”.¹¹ However, and in addition to the explicit requirements for proper consideration of LEAPS that stem from the provisions of AB 2514, in the Track 4 Decision, the Commission detailed other mandates, and for each, most (other than SCE, evidentially) now seem convinced that APS facilities like LEAPS will be essential to assuring the mandates are met as economically as possible. For example:

- The Track 4 Decision reiterated that the Commission has a statutory duty to ensure that customers receive reasonable services at just and reasonable rates, protect the environment, and maintain grid reliability. Clearly, APS facilities will be essential to helping this Commission and the CAISO meet this mandate for a modern green grid.
- Further, “in D.07-12-052 at 12, the Commission stated that once demand response and energy efficiency targets are reached, ‘the utility is to procure renewable generation to the fullest extent possible’.”¹² Again, most agree that APS facilities like LEAPS will be essential to integrating renewable generation “to the fullest extent possible.”
- The Track 4 Decision also reiterated that, “While we strongly intend to continue pursuing preferred resources to the greatest extent possible, we must always ensure that grid operations are not potentially compromised by excessive reliance on intermittent resources and resources with uncertain ability to meet LCR needs.”¹³ Again, only APS facilities like LEAPS can help assure a stable and reliable grid (through the provision of all ancillary services and energy) while efficiently integrating renewable generation.

The Commission also noted that D.12–01–033 requires that, “Instead of procuring a fixed amount of preferred resources and then procuring fossil-fuel resources, the IOUs are

¹¹ / Track 4 Decision, at footnote 3.

¹² / Track 4 Decision, at P. 14.

¹³ / *Id.* at P. 90.

required to continue to procure the preferred resources “to the extent that they are feasibly available and cost effective.”¹⁴ SCE knows that LEAPS is “feasibly available” and cannot yet know whether it is cost effective or not. SCE must consider storage facilities, including LEAPS, ahead of non–preferred resources in meeting authorized procurement targets and has not, notwithstanding the Commission’s directive that it “will modify SCE’s proposal to ensure that SCE procures a higher percentage of authorized resources from preferred resources and energy storage.”¹⁵ .

Although the Track 4 Decision clearly and specifically requires SCE to consider APS to fill the need identified in this proceeding, Nevada Hydro sees no evidence that SCE is abiding by its explicit mandates including:

1. Order 1.c. that requires SCE to procure at least 550 MW from preferred resources consistent with the Loading Order and that “large pumped hydro facilities shall not be excluded”.
2. Order 1.e. that requires any additional local capacity, beyond certain specified amounts “may only be procured through preferred resources (including bulk energy storage and large pumped hydro facilities)”.
3. Order 8.e. requires a “demonstration of technological neutrality, so that no resource was arbitrarily or unfairly prevented from bidding” into SCE’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, SCE and SDG&E shall show that it has contracted with these preferred resources first.”
4. Although it has obviously not done so, Order 12 that notes SCE “may modify its procurement plan approved by Energy Division per Decision 13-02-015 solely so that resources in portions of the Los Angeles Basin beyond the West Los Angeles sub-area may also be procured to meet incremental local capacity needs identified in this decision.” [Emphasis added.]

¹⁴ / *Id.* at P. 15.

¹⁵ / *Id.* at P. 93.

Thus, on the one hand, the Commission states that SCE's procurement authorization now extends throughout the LA Basin local reliability area¹⁶, and that SCE must consider APS as a preferred resource. Clearly, as the only APS facility under development in the LA Basin, the Commission meant for SCE to consider LEAPS. However, the Commission also stated this expansion into the larger LA Basin is at SCE's discretion:

*Thus, SCE should prioritize procurement in the West Los Angeles sub-area of the LA basin. To the extent that SCE wishes to procure resources in the LA Basin, but not in the West LA sub-area, to meet the incremental authorizations in this decision (i.e., for resources beyond those authorized in D.13-02-015), SCE shall amend its approved procurement plan from Track 1 within 90 days of this decision, subject to Energy Division approval.*¹⁷

Clearly, as SCE has not moved to amend its plan, it does not "wish" to procure resources outside the West Los Angeles sub-area of the LA basin. By leaving SCE this option, and notwithstanding all of the other mandates detailed above, SCE has been able to avoid considering LEAPS. Further, as there are no large storage or APS facilities in the "West Los Angeles sub-area of the LA basin", SCE is angling to present to the Commission a resource mix that excludes these (and perhaps other) Preferred Resources that are located in the larger area.

The Track 4 Decision is clear in its directive to SCE:

*As discussed herein, we require SCE and SDG&E to procure MW ranges of certain types of resources. Each utility should solicit all resources as required by this decision, and may propose for approval any set of resources which can meet the LCR need in its portion of the SONGS service area consistent with the authorized resource ranges herein. Within the categories that include preferred resources, bulk energy storage and large pumped hydro facilities should not be excluded. [Emphasis added.]*¹⁸

In Nevada Hydro's view, there is simply no reason to allow SCE to restrict its evaluation of "feasibly available and cost effective" resources to the West Los Angeles sub-area of the LA basin, particularly when Preferred Resources like LEAPS are available

¹⁶/ Track 4 Decision, Orders 1 and 5.

¹⁷/ Track 4 Decision, Page 111

¹⁸/ Track 4 Decision at P. 102.

and capable of solving the problems identified in this Proceeding in the larger SONGS study area and LA Basin.

4. By ignoring LEAPS, SCE may fill the need identified with other inferior resources, thereby imposing its view of “available resources” over that of this Commission.

The Commission has urged area utilities to “not wait until very close to when the need is critical to acquire such resources; to the extent that additional preferred resources or energy storage is cost-effective and well suited to meet LCR needs in the subject geographical areas, SCE and SDG&E should work to procure these resources in advance”.¹⁹ Why then is SCE not assessing LEAPS now?

The Track 4 Decision quotes SCE witness Nelson’s acknowledgement that SCE is aware APS facilities like LEAPS “could add additional value to the grid.”²⁰ However, and likely expressing the view of his employer, Mr. Nelson also “was uncertain about the ‘effectiveness’ of ‘any large pumped hydro storage’ in meeting the ‘West LA Basin LCR’ (perhaps as none exist in that area?), he did believe it could be ‘bid in’ for Track 1 and would contribute to the ‘balanced approach’ of using ‘all resources’ to avoid ‘the possibility of failure and being overly reliant on anyone’.”²¹ As noted, Nevada Hydro bid LEAPS in to the Track 1 process and was politely shown the door without any evaluation as to its effectiveness for meeting the LCR need.

Order 8 of the Track 4 Decision set forth the evaluation criteria against which the effectiveness of LEAPS (and all resources) is to be measured (repeated at this footnote).²² Clearly, not only has SCE not met any of these mandates for the LEAPS facility, having

¹⁹ / *Id.* at P. 113.

²⁰ / *Id.* at P. 100.

²¹ / As quoted at *Id.* at P. 101.

²² / These evaluation criteria identified in Order 8 of the Track 4 Decision are:

- a. Cost-effectiveness;
- b. 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 the LCR need;
- c. Compliance with Ordering Paragraphs 1 or 2 (as applicable);
- d. For applicable bilateral contracts, compliance with Public Utilities Code Section 454.6; and
- e. A demonstration of technological neutrality, so that no resource was arbitrarily or unfairly prevented from bidding in SCE’s or 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, SCE and SDG&E shall show that it has contracted with these preferred resources first.

eliminated it based upon its point of connection outside of the West LA area, but it may have violated criterion “e” by unfairly preventing the only APS project able to meet these identified needs from within the load pocket from participating in the evaluation process.

5. Proposed modification

Although Ordering Paragraph 1 of the Track 4 Decision clearly notes that the Order addresses the “Los Angeles Basin local reliability area”, Order 12 allows SCE the option to ignore this directive to look beyond its West Los Angeles sub-area focus from the Track 1 Decision to the expanded area in the Track 4 Decision.

For the reasons stated herein, Nevada Hydro respectfully requests that the Commission modify a single word in Order 12 of the Track 4 Decision as shown:

Southern California Edison Company (SCE) ~~may~~ shall modify its procurement plan approved by Energy Division per Decision 13-02-015 solely so that resources in portions of the Los Angeles Basin beyond the West Los Angeles sub-area may also be procured to meet incremental local capacity needs identified in this decision. Any such modification shall be submitted by SCE to Energy Division within 90 days of the effective date of this decision and shall be subject to the written approval of the Director of the Energy Division.

6. Conclusion

Renewable resources, integrated by appropriately sited energy storage, can provide both operational and reliability benefits, meeting all of the system needs of the evolving greener grid. Nevada Hydro’s TE/VS Interconnect and LEAPS projects are critical components for making this greener grid a reality while simultaneously economically solving the immediate reliability needs that are being addressed in this proceeding.

Given the State’s exacting clean energy policies, there is an unquestionable need for the electric power system in California to move toward an environmentally sustainable future, while still maintaining highly reliable and efficient service at the least possible cost. Given this policy imperative, there can be no doubt that APS generally and LEAPS specifically are the very best facilities that could be developed in the region in order to meet the challenges of:

- The ever-increasing need for highly flexible resources;

- The ever-expanding reliance in the region on variable renewable resources;
- The evident and hidden limitations on power flows into the region;
- The long-term imperative for California to move away from carbon-based energy resources; and,
- The permanent shutdown of SONGS.

Nevada Hydro trusts that the Commission will assure that the procurement playing field is level and does not discriminate against any potential player.

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Dated this 23rd day of June, 2014