

**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)

**RESPONSE OF THE PROTECT OUR COMMUNITIES FOUNDATION TO THE
JOINT PETITION FOR MODIFICATON OF DECISION 14-03-004**

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June 23, 2014

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I. INTRODUCTION

Pursuant to Rule 16.4 of the Commission’s Rules of Practice and Procedure the Protect Our Communities Foundation (“POC”) submits the following Response to the Joint Petition for Modification of Decision 14-03-004 filed by the California Environmental Justice Alliance, the Sierra Club, and Vote Solar on June 12, 2014 (the “Joint Petition”).

SD&GE’s flawed procurement plan and the Joint Petition demonstrate that additional factual errors in the Decision require modification, **including errors relating to the availability of transmission and preferred resources**. The need determinations reached in D.14-03-004 are based on the erroneous failure to count new transmission and reactive support resources; and preferred resources, including Demand Response, Energy Storage, Energy Efficiency, and Solar PV, resulting in loopholes that erroneously appear to allow more fossil resources than are warranted. The Procurement Plan submitted drives a truck through these erroneous loopholes.

Now that the Commission can clearly see SDG&E's intent to exploit those loopholes to lock down unneeded gas-fired resources, the Commission should close the loopholes in the Decision. All of these errors, including those raised in the Joint Petition, should be corrected.

II. THE DECISION SHOULD BE MODIFIED TO PRECLUDE BILATERAL CONTRACTS

The Decision's authorization of the utilities to enter into bilateral contracts for "some" of the capacity is ambiguous, self-contradictory, and contrary to the Commission's loading order obligations. As such, the authorization constitutes a significant error.

The Decision authorizes SCE and SDG&E to enter into bilateral contracts at Ordering Paragraph 3. This Paragraph states:

3. Southern California Edison Company and San Diego Gas & Electric Company are authorized to procure bilateral contracts to meet authorized local capacity requirements as specified in this Order, including bilateral contracts consistent with the provisions of Public Utilities Code Section 454.6.¹

The Decision further requires that SDG&E procure "some or all" of the authorized capacity through an all-source Request for Offers ("RFO"). Ordering Paragraph 6 states:

6. San Diego Gas & Electric Company (SDG&E) shall issue an all-source Request for Offers (RFO) for some or all capacity authorized by this decision in Ordering Paragraph 2. The RFO shall include the elements specified by Ordering Paragraph 4 of Decision (D.) 13-02-015, in addition to any RFO requirements not delineated herein but specified by previous Commission procurement decisions (including D. 07-12-052) and the authorization and requirements of this decision.²

a. Allowing Bilateral Contracts is Incompatible with Loading Order

The Decision's language allowing bilateral contracts is incompatible with the Decision's

¹ D.14-03-004, Ordering Paragraph 3, at p. 144

² D.14-03-004, Ordering Paragraph 6, at p. 144

requirement that procurement comply with the Loading Order, its finding that preferred resources could fill SDG&E's unmet need, and its requirement that all resources be able to compete on a fair basis. This incompatibility constitutes a significant error, which must be corrected by the Commission.

The Decision requires that all procurement comply with the Loading Order. The Loading Order requires that utilities first procure energy efficiency and demand side resources, followed by renewable resources, and only then may utilities procure conventional electricity.³ The Decision acknowledges its "statutory mandate to implement procurement-related policies to protect the environment" under Pub. Util. Code Section 454(b)(9)(C), which requires that utilities must first meet their unmet resource needs through all available energy efficiency and demand reduction resources that are cost-effective, reliable, and feasible."⁴ The Decision further acknowledges a long line of Commission decisions holding that utility procurement must be consistent with the Commission's Loading Order,⁵ and states that "We maintain our commitment to the Loading Order in this decision."⁶

Consistent with the loading order, the Decision requires that "all resources that can meet the specified requirements should be able to compete on a fair basis"⁷ and that procurement to meet any resource authorization be "consistent to the extent feasible with the Loading Order."⁸

The Decision finds that preferred resources could meet SDG&E's need. The Decision concludes that SDG&E has a need of 500 MW to 800 MW,⁹ and authorizes SDG&E to procure

³ D.14-03-004 at p. 14

⁴ D.14-03-004 at pp. 13-14

⁵ D.14-03-004 at p. 14

⁶ D.14-03-004 at p. 16

⁷ D.14-03-004 at p. 112

⁸ D.14-03-004 at p. 16

⁹ D.14-03-004, Conclusion of Law 36, at p. 139 ¶¶ 1-4

up to 800 MW to meet this identified need.¹⁰ It requires that *at least* 200 MW of this procurement come from energy storage and preferred resources.¹¹ It further requires that the remaining capacity (up to 600 MW) “be procured through any set of resources appropriate to meet LCR needs in the SDG&E territory, consistent to the extent feasible with the Loading Order of the Energy Action Plan.”¹² The Decision authorizes SDG&E to procure up to 100% of new local capacity through preferred resources.¹³ In authorizing SDG&E to procure up to 100% of new capacity in preferred resources, the Decision recognizes the possibility that preferred resources will be cost-effective, reliable, and feasible options for meeting SDG&E’s full 800 MW authorization.

If preferred resources *could* meet SDG&E’s full 800 MW identified need, in order to comply with the Loading Order the Commission *must* require an all-source RFO for all authorized procurement. In contrast to bilateral contracts, which are negotiated on a one-on-one basis, all-source RFOs require utilities to request offers from a variety of resources, including preferred resources. All-source RFO’s require that utilities compare all available procurement options, allowing resources “to compete on a fair basis.” This comparison allows for a determination as to whether preferred resources are cost-effective, reliable, and feasible alternatives to conventional resources. Such a side-by-side step is a necessary threshold step of the loading order.

The incompatibility of the Decision’s language authorizing bilateral contracts with its requirement that procurement comply with the Loading Order, its finding that preferred resources could fill SDG&E’s unmet need, and its requirement that all resources be able to

¹⁰ D.14-03-004, Ordering Paragraph 2, at pp. 143-144

¹¹ Id.

¹² D.14-03-004 at p. 97

¹³ D.14-03-004 at p. 2

compete on a fair basis, is demonstrated in SDG&E’s proposed Procurement Plans. SDG&E’s Procurement Plans seek a 600 MW bilateral contract with the Carlsbad Energy Center, a conventional gas-fired plant.¹⁴ POC agrees with the Joint Petition that SDG&E’s plan “forecloses competition and participation by clean energy solutions by predetermining the selection of a polluting, greenhouse intensive, fossil fuel facility.”¹⁵

b. The Decision’s bilateral contract authorization is vague and ambiguous

SDG&E’s Procurement Plans attempt take advantage of the loophole left by the flawed, ambiguous, and contradictory language regarding bilateral contracts. SDG&E has submitted two separate plans: a Conventional Resource Procurement Plan which proposes to procure 600 MW of gas-fired generation through a bilateral contract with the Carlsbad Energy Center; and a Preferred Resources Procurement Plan, which proposes to meet the Decision’s requirement¹⁶ that SDG&E procure 25 MW of energy storage resources and 175 MW of additional preferred resources through a “Preferred Resources RFO.”¹⁷

As the Joint Petition clearly establishes,¹⁸ SDG&E’s application would result in zero procurement through an all-source RFO. Instead, SDG&E would procure the maximum allowable amount of conventional generation through a non-competitive bilateral contract, and the minimum required amount of preferred resources through a “Preferred Resource RFO.” Because this Preferred Resource RFO is limited to preferred resources, it does not meet the definition of an “all-source RFO.”¹⁹ SDG&E’s proposals would thus procure 600 MW through a

¹⁴ SDG&E Track Plan 4 Procurement Plan (Conventional Procurement), at pp. 3
¹⁵ Joint Petition at p. 3
¹⁶ Order 031004, Ordering Paragraph 14, at pp. 143
¹⁷ SDG&E Track Plan 4 Procurement Plan (Preferred Resources), at pp. 1
¹⁸ Joint Petition at p. 2
¹⁹ See Order 031004

bilateral contract and 200 MW through limited RFO’s reaching the decision’s 800 MW cap without securing “some or all” of the procurement from an all-source RFO in violation of Ordering Paragraph 6.

Although SDG&E’s proposal is clearly inconsistent with the Decision’s requirement that “some or all” generation be procured through an all-source RFO, the fact that SDG&E even submitted such a proposal demonstrates the flawed nature of the Decision’s language authorizing bilateral contracts, and underscores the need to require an all-source RFO for all conventional generation. Allowing bilateral contracts effectively negates the language in the Decision requiring compliance with the Loading Order and finding that preferred resources could fill the unmet need. Allowing bilateral contracts will likely result in contracts that do not represent the best deal for ratepayers or the environment. Such contracts will not prioritize preferred resources, energy efficiency, and demand response over gas-powered procurement, in violation of section 454.5(b)(9)(c), the State’s Energy Action Plan, and the Commission’s own Loading Order. Nor will they ensure just and reasonable rates, violating the Commission’s duty to ratepayers under sections 451 and 454.

c. Specific Modifications to Decision

In light of the above discussion, the Commission should make the following modifications to D.14-03-004:

	Current Language	Proposed Change
Finding of Fact 90	90. SDG&E can potentially procure the required amount of preferred and other resources needed to meet the LCR need in its portion of the SONGS service area through an all-source RFO and bilateral contracts.	Revise to read: 90. SDG&E can procure the required amount of preferred and other resources needed to meet the LCR need in its portion of the SONGS service area through an all-source RFO.
Ordering	3. Southern California Edison Company and San	Strike

Paragraph 3	Diego Gas & Electric Company are authorized to procure bilateral contracts to meet authorized local capacity requirements as specified in this Order, including bilateral contracts consistent with the provisions of Public Utilities Code Section 454.6.	
Ordering Paragraph 6	6. San Diego Gas & Electric Company (SDG&E) shall issue an all-source Request for Offers (RFO) for some or all capacity authorized by this decision in Ordering Paragraph 2. The RFO shall include the elements specified by Ordering Paragraph 4 of Decision (D.) 13-02-015, in addition to any RFO requirements not delineated herein but specified by previous Commission procurement decisions (including D. 07-12-052) and the authorization and requirements of this decision.	Revise to read: 6. San Diego Gas & Electric Company (SDG&E) shall issue an all-source Request for Offers (RFO) for some of or all capacity authorized by this decision in Ordering Paragraph 2. The RFO shall include the elements specified by Ordering Paragraph 4 of Decision (D.) 13-02-015, in addition to any RFO requirements not delineated herein but specified by previous Commission procurement decisions (including D. 07-12-052) and the authorization and requirements of this decision.
Ordering Paragraph 8	8. Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall each file one Application for approval of any and all contracts entered into as a result of the procurement process authorized by this decision. The requirements of Ordering Paragraph 11 of Decision 13-02-015 shall apply to both utilities. Neither SCE nor SDG&E shall receive recovery in rates for the costs related to any such contract before Commission review and approval of these Applications. In addition to currently applicable rules, the Applications shall specify how the totality of the contracts meet the following criteria: 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	Strike criterion (d.): d. For applicable bilateral contracts, compliance with Public Utilities Code Section 454.6; and

	comparable to fossil-fueled resources, SCE and SDG&E shall show that it has contracted with these preferred resources first.	
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III. THE DECISION SHOULD BE MODIFIED TO INCLUDE RECENTLY APPROVED PROJECTS THAT REDUCE LCR.

POC agrees with the Joint Petition that the need determination reached in Track 4 should be updated to include the new resources approved in CAISO most recent Transmission Plan. In addition, the Decision should be updated to include these newly approved resources.

During the course of the Track 4 proceeding, parties raised several potential reactive power and transmission projects that would, if approved, significantly reduce San Diego’s local area need. The Decision did not include these potential resources in calculating the SONGS Area LCR, finding that both the potential reactive power projects,²⁰ and the potential transmission projects²¹ were too speculative to count towards meeting SDG&E’s LCR. However, the Decision specifically 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.”²²

On March 25, 2014, only 10 days later after the Commission voted on D.14-03-004, CAISO’s Board approved the 2013-2014 Transmission Plan. The Transmission Plan approves the following three new projects:

- An additional 450 MVAR of dynamic reactive support at San Luis Rey, which

²⁰ D.14-03-004, ¶ Findings of Fact ¶ 9 and ¶ 20, ¶ at ¶ p. ¶ 125 ¶

²¹ D.14-03-004, ¶ Findings of Fact ¶ 43, ¶ 48, ¶ at ¶ ¶ 40 ¶ ¶ 127

²² D.14-03-004 ¶ at ¶ ¶ 116

has a proposed in-service date of June 2018, and is expected to reduce LCR need by 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.²³

Both the Decision and SDG&E’s Procurement Plans must be updated to reflect CAISO’s approval of these new transmission and reactive power projects. Now that these projects have been approved by CAISO, they are no longer “uncertain.” The Decision and Procurement Plans must be modified to recognize the approval of these projects and reduce LCR accordingly.

Specifically, the Decision should be modified as follows:

	Current Language	Proposed Change
Finding of Fact 19	19. The record in the proceeding shows that there are sufficient resources to provide VAR support in the SONGS study area without further action at this time.	Rewrite: 19. Reactive Support projects approved by the CAISO in its 2014 Transmission Plan will be available to reduce LCR need.
Finding of Fact 20	20. Because there is not sufficient information available from the record to determine if additional reactive power resources not modeled by the ISO could be available to reduce LCR needs, any analysis of whether or how much additional reactive power support would change LCR needs in the SONGS service area is speculative.	Replace with: 20. In light of CAISO’s approval of 450 MVAR of dynamic reactive support at San Luis Rey with an in service date of 2018, it is reasonable to assume that the San Luis Rey dynamic reactive support project will be in place by 2022 and able to reduce the LCR need by 100 to 200 MW.
Finding of Fact 36	36. The Mesa Loop-In project would reduce the amount of gas-fired generation that would need to be sited in the LA Basin by approximately 1,200 MW, or 734 MW if there is no load shedding or additional gas-fired generation in the SDG&E territory.	Rewrite: 36. The Mesa Loop-In project would will reduce the amount of gas-fired generation that would need to be sited in the LA Basin by approximately 1,200 MW, or 734 MW if there is no load shedding or additional gas-fired generation in the SDG&E territory.
Finding of	37. The Mesa Loop-In project was submitted to	Rewrite:

²³ See CAISO 2013-14 TPP at p. 108, available at <http://www.caiso.com/Documents/Board-Approved2013-2014TransmissionPlan.pdf>. 쁁 □]

Fact 37	the ISO as part of its 2013 -2014 Transmission Planning Process.	37. The Mesa Loop-In was approved by the ISO in its 2013-2014 Transmission Plan, with an in-service date of 2020.
Finding of Fact 38	38. There is no record to determine if the Mesa Loop-In will be approved by the ISO in its TPP, or to determine whether, even if approved, it would be in service before 2022.	Rewrite: 38. In light of CAISO's approval of the Mesa-Loop in project with an in-service date of 2020, it is reasonable to assume that the Mesa Loop in will be in place and available to reduce LCR need by 300 MW to 640 MW by 2022.
Finding of Fact 39	39. The Mesa Loop-In proposal is a promising and reasonably likely alternative to other new resources in the LA Basin, if it is approved by the ISO and if it would be in service before 2022.	Strike – not relevant in light of CAISO approval.
New Finding of Fact	N/A	In Light of the CAISO's approval of the Imperial Valley Flow Controller with an in-service date of 2017, it is reasonable to assume that the Imperial Valley flow controller will be in place and available to reduce LCR need by 400 MW to 840 MW by 2022.
Finding of Fact 44	44. There is a reasonable possibility that at least one of the transmission solutions examined by SCE and SDG&E will be operational by 2022. The least complex of these projects is the Mesa-Loop-In project, which is therefore the most likely to meet this timeframe.	Rewrite: 44. It is very likely that the Mesa Loop-In project, the Imperial Valley Flow Controller, and the San Luis Rey dynamic reactive support projects will be operational by 2022.
Conclusion of Law 8	8. The ISO study of LCR needs for the SONGS service area should not be adjusted to account for speculative amounts of additional reactive power support.	Replace with: 8. The ISO study of LCR needs for the SONGS service area should not be adjusted to account for <u>280 MVAR of existing reactive power support at Huntington Beach and 550 MVAR at SONGS. 500 MW of LCR reduction attributable to the Imperial Valley Flow Controller project .</u>
Conclusion of Law 15	15. There is not enough information available at this time to make a specific finding that SCE or SDG&E's proposed transmission projects will be able to reduce the LCR need in the SONGS service territory by 2022.	Rewrite: 15. In light of CAISO's approval of the Mesa Loop-In, the San Lewis Rey dynamic reactive support, and the Imperial Valley Flow Controller, there is enough information available at this time to find that these projects will be available to reduce LCR need in the SONGS service territory by 2022.
Conclusion of Law 16	16. Due to significant uncertainties, the ISO's forecast should not be adjusted at this time to assume LCR benefits from the SCE Mesa Loop-In project or SDG&E's proposed transmission	Strike – not relevant in light of CAISO's approval of the projects.

	projects.	
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IV. THE DECISION SHOULD BE MODIFIED TO COUNT ALL PREFERRED RESOURCES AVAILABLE TO REDUCE LCR

The Decision largely discounts the preferred resources that were not modeled by the CAISO and as such were not included in CAISO’s 2022 need projection for the SONGS area. These resources are: Temporary Load Shedding (588 MW), Uncommitted Energy Efficiency (733 MW), Energy Storage (745 MW), Solar PV (800 MW), and Demand Response (997 MW).

To discount these resources, the Decision proceeds in two steps. First, the Decision distinguishes between those resources that are “reasonably possible” and those that are “very likely.” Only those resources that the Commission deems “very likely” to be in place by 2022 are counted.²⁴ The decision concludes that none of the preferred resources, each standing by itself, is very likely to be available, but assumes that in the aggregate some relatively small percentage of the preferred resources will be available.²⁵ No evidentiary record exists for this assumption or for the Commission’s methodology and thus these findings of fact should be struck.

The Decision’s use of this distinction and its conclusion that none of the preferred resources in question are “very likely” constitute significant errors of fact. The distinction between “reasonably possible” and “very likely” resources is vague, arbitrary, and has no basis in the evidentiary record. The conclusion that none of the preferred resources is “very likely” also constitutes an error of fact, as the evidentiary record clearly establishes that all or almost all of the Demand Response, Energy Storage, Energy Efficiency, and Solar PV resources in

²⁴ D.14-03-004 at pp. 68-71

²⁵ D.14-03-004, at pp. 72-73 (determining maximum procurement), and pp. 74-86 (determining minimum procurement)

question are either certain or very likely to be in place by 2022.²⁶

Second, the Decision acknowledges that collectively some of these preferred resources may be in place by 2022. To account for this possibility, the Decision calculates the maximum procurement level by adding together all of the resources in Table 1, rounding the total up from 4,597 MW to 4,600 MW, and discounting this total by assuming only one of the preferred resources will be developed. The decision similarly calculates the minimum procurement level by assuming that two of the resources will be developed and subtracting the MW value of both resources from the 4,600 MW total.

This methodology constitutes a major factual error. There is no factual or evidentiary basis for the assumption that one resource will be fully developed, while all other resources will remain entirely undeveloped. There is further no factual or evidentiary basis for the claim that assuming that one resource will be fully developed and all others will be at zero is a valid proxy for the actual evidence regarding how much of each resource will be in place.

	Current Language	Proposed Change
Finding of Fact 62	62. The highest reasonable LCR need level must take into account those resources which are very likely to be procured in the time frame between now and 2022.	Strike “very”
Finding of Fact 63	63. Taking very likely or certain modifications into account, the highest prudent level of procurement authorization for the SONGS study area would be 1,802 MW (rounded to 1,800 MW).	Replace with: 63. Taking likely or certain modifications into account, no procurement authorization is necessary for the SONGS study area.
Finding of Fact 64	64. At least some resources beyond those counted to determine the 1,800 MW maximum procurement level are reasonably likely to be procured in the SONGS study area by 2022.	Replace with: 64. A significant share of the resources beyond those counted to determine a zero procurement level are reasonably likely to be procured in the SONGS study area by 2022.
Finding of Fact 66	66. It is reasonable to assume that at least between 10% and 20% of the approximately	Replace with:

²⁶ See discussion at POC Petition for Modification, pp. 8-18 ¶¶ 11-17

	4600 MW of resources not studied by the ISO will be available.	66. It is reasonable to assume that a significant share of the approximately 4600 MW of resources not studied by the ISO will be available.
Finding of Fact 67	67. Using a methodology of subtracting out any one of several possible resources or assumptions not included in the ISO modeling produces a range of maximum procurement levels which takes into account between 588 and 997 MW, or between 13% and 22% of the 4,600 MW in total not studied by the ISO.	Strike – methodology is arbitrary and unsupported by record.
Finding of Fact 68	68. A maximum prudent procurement analysis which incorporate one of the likely resources or assumptions to meet or reduce LCR needs shows the upper bound of a reasonable procurement range under different assumptions ranges from 1,800 MW down to 1,393 MW.	Strike – methodology is arbitrary and unsupported by record.
Finding of Fact 69	69. While it is reasonable to assume that some resources not accounted for in the calculation of maximum need will be available and will mitigate LCR needs, it is not reasonable to assume this will be true for most of these resources.	Rewrite to say: 69. While It is reasonable to assume that some resources not accounted for in the calculation of maximum need will be available and will mitigate LCR needs ., it is not reasonable to assume this will be true for most of these resources.
Finding of Fact 70	70. While it is mathematically possible to construct an analysis using a series of optimistic assumptions about resource availability that could lead to a finding of zero or negative need, we find that a conclusion of zero need is not reasonable.	Replace with: 70. A conclusion of zero need is reasonable.
Finding of Fact 71	71. A proxy for calculating a minimum LCR need level is to calculate the LCR impact if any two likely potential scenarios (load -shedding, Mesa Loop-In, additional energy efficiency impacts, ‘second contingency’ demand response, energy storage, ‘second contingency’ solar PV) should occur.	Strike – methodology has no basis in evidentiary record, no legal basis.
Finding of Fact 72	72. Using a methodology of subtracting out any two of several possible resources or assumptions not included in the ISO modeling produces a range of minimum procurement levels which takes into account between 1,322 and 1,797 MW, or between 29% and 39% of 4,600 MW.	Strike – methodology is arbitrary and unsupported by record.
Finding of Fact 73	73. In each case of 100% availability of any two likely scenarios not included in the ISO’s modeling, a minimum procurement level ranges from 593 to 1,067 MW (not taking into account	Strike – methodology is arbitrary and unsupported by record.

	uncertainties of effectiveness of various resources in meeting or reducing LCR needs).	
Conclusion of Law 28	28. For the purpose of calculating a maximum procurement level, it is reasonable to assume that at least 13% - 22% of resources or assumptions not studied by the ISO will ultimately be available to meet or reduce LCR needs in the SONGS service area by 2022.	Strike – methodology is arbitrary and not supported by record.
Conclusion of Law 29	29. To account for uncertainties about effectiveness of LCR reductions for certain resources, a reasonable maximum procurement level should be somewhere between 1,383 and 1,800 MW.	Strike – conclusion based on arbitrary and unsupported methodology.
Conclusion of Law 30	30. A finding of zero LCR need for the SONGS service area for 2022 would not be prudent because it would most likely lead to under-procurement.	Rewrite: 30. A finding of zero LCR need for the SONGS service area for 2022 would not lead to under-procurement.
Conclusion of Law 31	31. Analyzing 100% availability of any two sets of resources or assumptions not included in the ISO models is a reasonable proxy for the largest amount of available LCR reductions from the ISO analysis.	Strike – methodology is arbitrary and unsupported by record.
Conclusion of Law 32	32. For the purpose of calculating a minimum procurement level, it is reasonable to assume that at least 29% to 39% of resources or assumptions not studied by the ISO will ultimately be available to meet or reduce LCR needs in the SONGS service area by 2022.	Strike – methodology is arbitrary and unsupported by record.
Conclusion of Law 33	33. To be certain that authorized procurement levels will not result in under -procurement, the minimum authorized procurement level should in no case be no less than 593 MW, but could be reasonably set anywhere between 593 and 1,067 MW.	Rewrite: 33. Because there is no LCR need for 2022, there is no risk of under -procurement, and it is not necessary to identify a minimum procurement level for the SONGS area.

a. The Decision should be Modified to Fully Count Demand Response

The Joint Petition argues SDG&E’s proposed Preferred Resources Procurement Plan fails to consider soliciting distributed generation to meet its LCR need.²⁷ POC agrees that the

²⁷ Joint Petition, at pp. 4-5

Procurement Plan is inadequate in this respect. The inadequacy of SDG&E’s Procurement Plan highlights the inadequacy of the Decision itself, which fails count 997 MW of Demand Response resources identified by the parties.

The Decision discounts the full 997 MW of Demand Response identified by the parties based on arbitrary categories called “first contingency” and “second contingency” DR.²⁸ Although ISO witnesses mention these terms in their testimony, neither the Commission nor CAISO has ever defined LCR requirements for DR, much less defined them in such restrictive terms.²⁹ The distinction between first contingency and second contingency DR is arbitrary, because record evidence shows that SCE and SDG&E can schedule the dispatch of available DR to reduce peak load on a forecast 1-in-10 year weather event day in the same manner it does for slow-firing generation. CAISO witness Millar testified that a slow-firing gas generation plant (such as a coastal OTC boiler plant) is considered a first-contingency resource despite requiring more than 30 minutes to call up, noting that in high load periods (such as the 1-in-10-year peak weather event modeled in this proceeding) CAISO would be able to commit the plant in advance.³⁰ He admitted that the same could be true of DR programs,³¹ thus demonstrating that the use of first contingency and second contingency categories constitute an arbitrary distinction without record support in this proceeding. The Decision’s dismissal of 997 MW of available Demand Response based on the arbitrary first contingency and second contingency categories constitutes a significant error of fact.

	Current Language	Proposed Change
Finding of Fact 45	45. Consistent with the revised Scoping Memo, the ISO determined that demand response	Replace with:

²⁸ D.14-03-004, at pp. 53-54

²⁹ EnerNOC, Inc. Prepared Testimony of Mona Tierney-Lloyd at p. 11

³⁰ Transcript at p. 1692 (Cross examination of CAISO Witness Millar).

³¹ .

	resources which cannot respond in 30 minutes should be considered ‘second contingency’ resources.	45. Given the Utilities’ ability to dispatch Demand Response ahead of peak weather events, CAISO’s distinction between “first contingency” and “second contingency” Demand Response is not valid.
Finding of Fact 46	46. Consistent with the revised Scoping Memo, 997 MW of ‘second contingency’ demand response in the ISO modeling was not available to avoid the second contingency, but would be available to respond to the second contingency.	Replace with: 46. It is reasonable to expect that the full 997 MW of Demand Response identified by the CAISO as “second contingency” will be available to mitigate all contingencies. As such, the full 997 MW should be assumed available to meet the SONGS area LCR.
Finding of Fact 47	47. It is reasonable to expect that, in the future, some amount of what is now considered ‘second contingency’ demand response resources can be available to mitigate the first contingency, and therefore meet LCR needs.	Replace with: 47. It is reasonable to expect that, in the future, 997 MW of of what is now considered ‘second contingency’ demand response resources can be available to mitigate the first contingency, and therefore meet LCR needs.
Finding of Fact 49	49. The energy storage targets adopted in D.13-10-040 cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis. Potential amounts of demand response, energy efficiency or solar PV resources also cannot be assumed to count toward meeting the LCR need on a megawatt - for-megawatt basis.	Strike language regarding Demand Response.
Conclusion of Law 18	18. The ISO’s forecast should not be adjusted to assume ‘second contingency’ demand response resources will be available to meet LCR needs.	Replace with: 18. The ISO’s forecast should not be adjusted to assume all demand response resources will be available to meet LCR needs.
Conclusion of Law 19	19. The likelihood that some demand response resources, currently considered ‘second contingency’ resources, will be available to meet LCR needs in the future provides more confidence that it is not necessary at this time to authorize the utilities to procure all of the resources indicated to be necessary in the ISO’s study.	Replace with: 19. The likelihood that some demand response resources, currently considered ‘second contingency’ resources, will be available to meet LCR needs in the future provides more confidence that 997 MW of DR will be available by 2022 and thus it is not necessary at this time to authorize the utilities to procure all of the resources indicated to be necessary in the ISO’s study.

b. The Decision Should be Modified to Count 745 MW of Energy Storage Available to Reduce

LCR

The Decision fails to count 745 MW of energy storage resources that will be added in SCE and SDG&E territories pursuant to AB 2514 and Decision D.13-10-040. The Decision justifies this failure by claiming that these resources are too “uncertain” to count towards LCR. By failing to count these energy storage resources, the Decision ignores the fact that under Pub. Util. Code Section 2835 et. seq. the energy storage targets adopted by the Commission are mandatory.³² The Commission’s failure to count mandatory energy storage procurement constitutes a significant error of fact.

	Current Language	Proposed Change
Finding of Fact 49	49. The energy storage targets adopted in D.13-10-040 cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis. Potential amounts of demand response, energy efficiency or solar PV resources also cannot be assumed to count toward meeting the LCR need on a megawatt - for-megawatt basis.	Replace with: The Commission’s energy storage decision, adopted pursuant to AB 2514, mandates that the utilities purchase 745 MW of energy storage resources by 2020.
Finding of Fact 50	50. It is likely that some of the energy storage targets will available and effective to meet LCR needs in the SONGS service area before 2022.	Replace “some” with “a significant portion”
Finding of Fact 51	51. The incipient nature of energy storage resources, uncertainty about location and effectiveness, and unknowns concerning timing provide insufficient information at this time to assess how and to what extent energy storage resources can reduce LCR needs in the future.	Strike – contradicted by mandatory nature of ES
Finding of Fact 88	88. Because the process for utility solicitations of energy storage per D.13-10-040 has not yet started, it is too early to know if such targets are too high, too low or just right.	Strike – contradicted by mandatory nature of ES
Conclusion of Law 20	20. While the LCR effect of potential energy storage resources cannot be quantified at this time, the targets and requirements of D.13 -10-040 lead to a conclusion that energy storage resources will reduce LCR needs in the SONGS service area to some extent in the future.	Strike phrase before “the targets”. Strike “to some extent in the future” and replace with “by 745 MW”

³² See Discussion at POC Petition for Modification, at pp. 16-18

Conclusion of Law 21	21. The potential of energy storage to meet LCR needs provides more confidence that it is not necessary at this time to authorize the utilities to procure all of the resources indicated to be necessary in the ISO's study.	Replace with: 21. The statutory requirement that 745 MW of energy storage be in place to meet LCR need by 2024, and the high likelihood that a significant portion of this resource will be available by 2022, provides more confidence that it is not necessary at this time to authorize the utilities to procure all of the resources indicated to be necessary in the ISO's study.
Conclusion of Law 38	38. A prudent approach to reliability entails a gradual increase in the level of preferred resources and energy storage into the resource mix.	Replace with: 38. A prudent approach to reliability must be consistent with the loading order and must fully account for all mandatory preferred resources, and preferred resource targets, including energy storage, in calculating LCR.

c. The Decision Should be Modified to Count 733 MW in Energy Efficiency Savings to Reduce LCR

The Decision fails to count the full 733 MW of additional uncommitted Energy Efficiency Savings (beyond the uncommitted EE included in the CAISO modeling) identified by parties in the Track 4 proceeding, despite the uncontradicted evidence in the record establishing the availability of this preferred resource to reduce need.

The 733MW of energy efficiency (EE) at issue falls into two groups: (1) 576 MW of “naturally occurring” EE savings, i.e., EE savings that are expected to occur regardless of any program or policy, and (2) 157 MW of EE savings from California Energy Commission (CEC) building efficiency standards set to take effect in 2017 and 2020, as well as other State and Federal EE codes and standards that will produce savings beginning in 2015.³³

The Decision rejects the 576 MW of “naturally occurring” EE savings on two grounds, both relating to the feasibility and availability of these EE resources. First, the Decision claims

³³ See Opening Brief, Brief, and RDIP, Opening Brief, and Brief at pp. 5

that uncommitted EE values were based on a “draft” CEC staff forecast that was “not final.”³⁴ This is a factual error, as “the 576 MW of ‘naturally occurring’ savings do not, as the Decision states, come from the September 2013 CEC draft forecast. Rather, they come from 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.”³⁵

Second, the Decision claims the LCR impact of uncommitted EE is too uncertain because “there is nothing in the record to show how or whether any such updates might impact LCR needs.”³⁶ This is also in error. The Natural Resources Defense Council (NRDC) provided testimony indicating that the naturally occurring savings detailed in the report “yields 576 MW of additional local impacts from energy efficiency in the SONGS study area (LA Basin and SDG&E territory).”³⁷

The Decision similarly erred in failing to count the 157 MW of EE from new State and Federal Codes. The Commission’s dismissal of the 157 MW is based on the claim that “there is nothing in the record to show how or whether any such updates might impact LCR needs.”³⁸ However, the 157 MW identified by CEJA and NRDC is adjusted for LCR impact.³⁹

	Current Language	Proposed Change
Finding of Fact 49	49. The energy storage targets adopted in D.13-10-040 cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis. Potential amounts of demand response, energy efficiency or solar PV resources also cannot be assumed to count toward meeting the LCR need on a megawatt - for-megawatt basis.	Rewrite: 49. The energy storage targets adopted in D.13-10-040 cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis. Potential amounts of demand response, energy efficiency or solar PV resources also cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis. The 733 MW of additional

³⁴ D.14-03-004, at pp. 35-36

³⁵ Ex. NRDC-1 (Martinez Opening Testimony), at p. 10

³⁶ D.14-03-004, at p. 36

³⁷ Ex. NRDC-1 (Martinez Opening Testimony), at p. 11

³⁸ D.14-03-004, at p. 36

³⁹ CEJA Opening Brief, at p. 23; Ex. NRDC-1 (Martinez Opening Testimony), at p. 5, Table 1. 췁 □ ㄱ

	uncommitted energy efficiency that was not included in CAISO’s modeling will be available by 2022 to meet LCR.
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d. The Decision Should be Modified to Count 770 MW Solar PV Available to Reduce LCR

The Decision commits significant errors of fact in failing to account for 770 MW of Solar PV that will be available to meet LCR need by 2022.

The Commission recognizes that all solar PV resources will be “on” at the LCR peak condition at the capacity factor of 0.45 or 0.46.⁴⁰ The Decision’s use of these factors is already a substantial discount relative to the 0.55 capacity factor assumption specified in Track 2 of this proceeding.⁴¹ There is no uncertainty about the output of solar PV at times of peak demand. Nonetheless, the decision ignores these solar resources on the ground that it is not possible to identify in advance what will be the exact location(s) of solar PV within the LCR area.⁴²

The location of solar PV matters, however, only to the extent that the solar PV is located either in the LA Basin or SDG&E territory. No record evidence exists in this proceeding upon which the Commission can support its determination that solar PV does not reduce LCR need, and no factual support is provided in the Decision for ignoring the 278 MW of additional solar PV (by 2022) that the Commission admits will occur, simply because its location is not precisely known within the LCR area.

The decision further errs by failing to account for the significant increase in the utilities’ net-metered solar targets under AB 327, which became law in October 2013.⁴³ At a minimum, under AB 327 the utilities will be required to add 3,316 MW of additional net-metered solar by

⁴⁰ Revised Scoping Memo, Attachment A, p. 9

⁴¹ D.12-12-010, pdf p. 76. IV. Other Assumptions Common To All Scenarios, 0.55 = incremental small PV conversion factor for installed capacity to peak production MW (decimal).

⁴² D.14-03-004, Finding of Fact 54, at p. 129

⁴³ Assembly Bill No. 327 (Cal. 2013) 〰〰

mid-2017. In this proceeding, the Commission assumed that only 1,011 MW of additional solar PV would be added by 2018 and 1,300 MW by 2022 in the entire CAISO control area, which includes PG&E, SCE and SDG&E.⁴⁴ The Commission’s 2018 additional solar PV assumption is only one-third of the additional solar PV that is required by AB 327, and therefore only one-third of the solar capacity that is reasonably likely or certain to be added by mid-2017. The Commission’s 2022 assumption is only about 40 percent of the solar PV that is required by statute and thus is reasonably likely or certain to be added by mid-2017. At a minimum, as a result of current statutory requirements, 2,305 MW of additional solar PV capacity will be added by California’s IOUs by mid-2017 beyond the 1,011 MW that the Commission counts as available. Of this 2,305 MW of additional solar PV capacity, 866 MW will be located in SCE’s LA Basin and 221 MW will be located in SDG&E territory. Of this amount, about 492 MW will be available on peak to meet LCR need in addition to the 278 MW of peak solar PV in 2022 assumed in the Decision.⁴⁵ All of this required 770 MW of peak solar PV capacity, that will be meeting LCR need, is ignored by the Decision.

In light of the above discussion, the Decision should be amended as follows:

	Current Language	Proposed Change
Finding of Fact 49	49. The energy storage targets adopted in D.13-10-040 cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis. Potential amounts of demand response, energy efficiency or solar PV resources also cannot be assumed to count toward meeting the LCR need on a megawatt-for-megawatt basis.	Strike language re. Solar PV Add: Under AB 327, the utilities are required to have an additional 2,305 MW of Solar PV capacity in place by mid-2017. Of this additional capacity, 866 MW will be located in SCE’s LA Basin and 221 MW will be located in SDG&E territory. Of this amount, 492 MW will be available on peak to meet LCR need in addition to the 278 MW of peak solar PV already assumed in this Decision to be available by 2022. All of this

⁴⁴ Revised Scoping Memo, Attachment A, p. 9

⁴⁵ The Decision assumes the solar capacity factors at peak demand in the LA Basin and SDG&E territory are 0.45 and 0.46, respectively. Therefore, total additional solar PV available at peak is: (866 MW x 0.45) + (221 MW x 0.46) = 492 MW. This is additional solar PV beyond the 278 MW of peak solar PV in 2022 assumed in the Decision. 썩 □ □

		required 770 MW of peak solar PV capacity will be available to meet LCR need.
Finding of Fact 54	54. Consistent with the revised Scoping Memo, the ISO correctly designates incremental customer-side solar PV as a ‘second contingency’ resource because it is difficult to predict the location where customer-side PV will get built.	Strike – no evidentiary basis for “second contingency” treatment of PV based “uncertainty”
Finding of Fact 55	55. It is likely that Commission programs and the marketplace will increase the amount of solar PV in the future. However, there is no specific data or analysis in the record to determine where solar PV will locate, or the impacts of solar PV on LCR needs.	Strike second sentence: 55. It is likely that Commission programs and the marketplace will increase the amount of solar PV in the future. However, there is no specific data or analysis in the record to determine where solar PV will locate, or the impacts of solar PV on LCR needs.
Conclusion of Law 24	24. It is too speculative to make any changes to the ISO study results to account for solar PV.	Replace with: 24. 770 MW of solar PV will be available by 2022 to meet LCR.

V. MODIFICATION OF PROCUREMENT AUTHORIZATIONS

Adopting any of the modifications to D.14-03-004 described above would require that the Decision’s findings of need and procurement authorizations be updated. The specific findings of fact, conclusions of law, and ordering paragraphs that would need to be updated are set forth below:

	Current Language	Proposed Change
Finding of Fact 75	75. An overall authorized procurement level for the SONGS service area at this time of 1,000 - 1,500 MW is consistent with the recommendations of many parties and is near the center of the overall zone of reasonableness.	Strike or modify with new need/procurement figures.
Finding of Fact 76	76. Authorized procurement levels of 1,000 to 1,500 MW will not provide the full amount needed to meet the LCR needs in the SONGS service territory through 2022; a significant amount of future resources to meet LCR needs in the SONGS service territory will come from	Strike or modify with new need/procurement figures.

	procurement authorized in other Commission proceedings, the marketplace and other regulatory forums.	
Finding of Fact 81	81. Authorizing SCE to procure between 500 and 700 MW in its portion of the SONGS service area is within the range of prudent procurement. Authorizing SDG&E to procure between 500 and 800 MW in its portion of the SONGS service area is within the range of prudent procurement.	Strike or modify with new need/procurement figures.
Conclusion of Law 29	29. To account for uncertainties about effectiveness of LCR reductions for certain resources, a reasonable maximum procurement level should be somewhere between 1,383 and 1,800 MW.	Strike or modify with new need/procurement figures.
Conclusion of Law 35	35. An overall authorized procurement level for the SONGS service area at this time of 1,000 - 1,500 MW provides reasonable ratepayer protection against over procurement and simultaneously provides reasonable protection from reliability impacts from under procurement.	Strike or modify with new need/procurement figures.
Conclusion of Law 36	36. It is reasonable to authorize SCE to procure between 500 and 700 MW in its portions of the SONGS service area. It is reasonable to authorize SDG&E to procure between 500 and 800 MW in its portions of the SONGS service area.	Strike or modify with new need/procurement figures.
Conclusion of Law 42	42. Requiring SCE to procure between 400 and 1,500 MW (or 21% to 60%) from preferred resources or energy storage in total between D.13-02-015 and this decision is more consistent with the Loading Order than SCE's proposal.	Strike or modify with new need/procurement figures.
Ordering Paragraph 1	1. In combination with procurement authorizations totaling 1,400 to 1,800 Megawatts (MW) in Ordering Paragraph 1 of Decision 13-02-015, Southern California Edison Company is authorized to procure between 1,900 and 2,500 MW of electrical capacity in the Los Angeles Basin local reliability area to meet long-term local capacity requirements by the end of 2021. [Including guidelines and table].	Strike or modify with new need/procurement figures.
Ordering Paragraph 2	2. San Diego Gas & Electric Company is authorized to procure between 500 Megawatts (MW) and 800 MW of electrical capacity in its territory to meet long-term local capacity	Strike or modify with new need/procurement figures.

	<p>requirements by the end of 2021. Procurement must abide by the following guidelines:</p> <p>a. At least 25 MW of local capacity must be procured from energy storage resources (as defined in Decision 13-10-040);</p> <p>b. At least 175 MW of local capacity must be procured from preferred resources consistent with the Loading Order of the Energy Action Plan (beyond the requirement of subparagraph (a) of this Ordering Paragraph). Bulk energy storage and large pumped hydro facilities shall not be excluded from this category.</p>	
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VI. CONCLUSION

The Commission should correct the above identified errors in D.14-03-004 and SDG&E’s procurement plans.

Respectfully Submitted,

Dated: June 23, 2014

 /S/
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