

**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 SAN DIEGO GAS AND ELECTRIC COMPANY
(U 902 E) TO JOINT PARTIES' PETITION FOR
MODIFICATION OF DECISION 14-03-004**

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**I.
INTRODUCTION**

Pursuant to Rule 16.4(f) of the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), San Diego Gas & Electric Company ("SDG&E") provides this response to the *Joint Petition for Modification of Decision 14-03-004 Seeking Notice and Comment of SDG&E's Proposed Procurement Plans* ("PFM") filed by Sierra Club California, the California Environmental Justice Alliance and the Vote Solar Initiative (together, the "Joint Parties") in the above-captioned proceeding. SDG&E respectfully requests that the Commission deny the PFM on the grounds that it lacks merit and is moot given the request for informal comments issued by the Commission's Energy Division on June 17, 2014.

**II.
DISCUSSION**

In Decision ("D.") 14-03-004 (the "Track 4 Decision"), the Commission authorized SDG&E to procure local resources to meet local capacity requirement ("LCR") need resulting from the retirement of the San Onofre Nuclear Generating Station ("SONGS"). Specifically, the Track 4 Decision authorizes SDG&E to procure through an all-source request for offers ("RFO") or through bilateral negotiations between 500 and 800 Megawatts ("MW") of electrical capacity

in its territory to meet long term local capacity requirements by the end of 2021.^{1/} Such procurement must include at least 25 MW of energy storage resources as part of 200 MW of preferred resources consistent with the Loading Order of the Energy Action Plan.^{2/}

The Track 4 Decision directs SDG&E to submit for review and approval by the Director of the Commission’s Energy Division a procurement plan (the “Track 4 Procurement Plan”) explaining how it will procure the resources authorized by the Track 4 Decision.^{3/} The decision permits SDG&E to submit the conventional gas-fired resources portion of its Track 4 Procurement Plan for review in advance of submission of its full Track 4 Procurement Plan.^{4/} SDG&E has submitted the draft preferred and conventional resources portions of its Track 4 Procurement Plan to the Energy Division, and is working with Energy Division staff to address areas of concern. SDG&E’s approved Track 4 Procurement Plan, as well as its approved Long-Term Procurement Plan (“LTPP”) will guide SDG&E’s procurement of Track 4 resources. SDG&E will seek Commission approval of all such procurement through formal application filings.

While the Track 4 Decision directs SDG&E to provide its Track 4 Procurement Plan to the Energy Division for review and approval, it does not require SDG&E to serve the Track 4 Procurement Plan on parties, nor does it establish a formal stakeholder review process. The Joint Parties seek modification of this aspect of the Track 4 Decision, arguing that “[f]ormal notice and comment is needed to facilitate procurement plan compliance, provide transparency in

^{1/} D.14-03-004, *mimeo*, Ordering Paragraph 2.

^{2/} *Id.*

^{3/} *Id.* at OP 7.

^{4/} OP 7 of D.14-03-004 states that SDG&E’s procurement plan “shall be subject to the same procurement plan requirements of OP 6, 7 and 8 of D.13-02-015 (Southern California Edison’s (“SCE”) Local Capacity Requirement decision). OP 8 of D.13-02-015 states that “[SCE] may provide the conventional gas-fired resources portion of the procurement plan for review ahead of its full procurement plan. If Energy Division approves this portion of the plan, [SCE] may go forward with that procurement.”

procurement plan approval, and restore public confidence in the approval process for plans with significant implications for ratepayers and the environment.”^{5/} The PFM also wrongly claims that SDG&E’s draft Track 4 Procurement Plan is inconsistent with D.14-03-014 in several respects.^{6/} The modified procedural requirements proposed in the PFM would apply solely to SDG&E; the PFM does not seek modification of the procedural requirements applicable to SCE’s amendment of its Track 1 procurement plan.^{7/}

The arguments raised by the Joint Parties lack merit. First, as the PFM concedes, the Joint Parties’ proposal was already considered and rejected by the Commission in D.14-03-004.^{8/} The mere fact that the Joint Parties would have preferred a different outcome in the proceeding does not provide adequate justification for modifying the Track 4 Decision. Second, the claim that formal stakeholder review of SDG&E’s Track 4 Procurement Plan is necessary to ensure transparency of SDG&E’s Track 4 procurement is not credible. In general, utility procurement is subject to significant scrutiny through Commission rulemaking and application proceedings, as well as through the Procurement Review Group (“PRG”) process. Here, SDG&E’s procurement proposals were thoroughly litigated in the LTPP proceeding and proposed contracts with specific resources will be submitted for Commission approval through a formal application filing. The application approval process entails careful review of the proposed contract and the procurement method by the Commission and stakeholders, and often involves litigation of contested issues. Thus, the notion that procurement by SDG&E, pursuant to its Track 4 authorization or otherwise, will escape public review is not supported by fact. An additional layer of stakeholder review is not warranted and will not serve the public interest.

^{5/} PFM, p. 1.

^{6/} SDG&E does not address these claims herein.

^{7/} PFM, p. 1, note 1.

^{8/} *Id.* at p. 6.

Requiring formal stakeholder review of SDG&E’s Track 4 Procurement Plan would inject harmful and unnecessary delay into the procurement process. The Track 4 Decision acknowledges that time is of the essence in procuring new resources to respond to the unavailability of SONGS;^{9/} the Energy Division review process established in D.13-02-015 and D.14-03-004 strikes a reasonable balance between the desire to provide guidance concerning procurement strategy and the need to move forward expeditiously with procurement required to ensure local reliability. As noted above, SDG&E is working with the Energy Division to understand concerns and to incorporate feedback received regarding SDG&E’s draft Track 4 Procurement Plan. The Joint Parties provide no support for their apparent conclusion that Energy Division staff is not equipped to handle review of SDG&E’s Track 4 Plan, or for the assertion that formal stakeholder review is “critical to restoring confidence and integrity in Commission decision-making.”^{10/}

While the Joint Parties suggest that the procedural modifications they propose are generally necessary to restore integrity to the Commission’s decision-making process, this claim is undercut by the fact that the Joint Parties focus *solely* on SDG&E in proposing modification of the review procedure adopted in D.13-02-015 and D.14-03-004.^{11/} The Joint Parties envision a more stringent process for SDG&E than for SCE, but do not justify the difference in treatment of the two utilities. Indeed, no justification exists for the arbitrary approach proposed by the Joint Parties. The review process established in D.13-02-105 and relied upon in D.14-03-004 has proven effective and the Joint Parties do not offer a compelling rationale for abandoning it. The

^{9/} See, e.g., D.14-03-004, *mimeo*, p. 110.

^{10/} PFM, p. 7.

^{11/} The Track 4 Decision permits SCE to amend its Track 1 procurement plan in light of incremental authorizations issued in Track 4 and requires, in such a circumstance, that the amendment be submitted to the Energy Division for review and approval. D.14-03-004, *mimeo*, p. 111, 115, Ordering Paragraph 7.

formal stakeholder review process proposed by the Joint Parties is inconsistent with the precedent established in D.13-02-015 and contrary to the public interest. Accordingly, the PFM should be denied.

Finally, SDG&E notes that on June 17, 2014, the Energy Division served SDG&E's Track 4 Procurement Plan on the service list of R.12-03-014 and requested informal comments from stakeholders. Given this development, the PFM is moot. While counsel for the California Environmental Justice Alliance ("CEJA") requests that the Commission grant the PFM notwithstanding the Energy Division's action, it is not clear what purpose would be served in doing so.^{12/} For this reason, and for those described above, the Commission should deny the PFM.

III. CONCLUSION

For the reasons set forth herein, the Joint Parties PFM should be denied.

Dated this 23rd day of June, 2014 in San Diego, California.

Respectfully submitted,

/s/ Aimee M. Smith

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^{12/} E-mail from Deborah Behles to R.12-03-014 service list dated June 18, 2014.