

**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

R.12-03-014
(Filed March 22, 2012)

**PETITION FOR MODIFICATION OF DECISION 14-03-004 OF THE
ALLIANCE FOR RETAIL ENERGY MARKETS AND THE
DIRECT ACCESS CUSTOMER COALITION**

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July 29, 2014

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In accordance with the provisions of Section 16.4 of the Commission’s Rules of Practice and Procedure, this petition for modification is filed on behalf of the Alliance for Retail Energy Markets¹ (“AREM”) and the Direct Access Customer Coalition² (“DACC”) with regard to Decision (“D.”) 14-03-004 (the “Decision”), issued on March 14, 2014, in Track 4 of the above-captioned proceeding. Rule 16.4(b) provides in part, as follows:

A petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed.

This Petition complies with these requirements and is filed within less than a year after the issuance of the Decision, in compliance with Rule 16.4(c).

¹ AREM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access (“DA”) market. This filing represents the position of AREM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

² DACC is a regulatory alliance of educational, commercial, industrial and governmental customers who have opted for direct access to meet some or all of their electricity needs. In the aggregate, DACC member companies represent over 1,900 MW of demand that is met by both direct access and bundled utility service and about 11,500 GWH of statewide annual usage.

I. Background to Petition

This petition seeks clarity with respect to when and how the Cost Allocation Mechanism (“CAM”) will be applied to the procurement undertaken by Southern California Edison (“SCE”) and San Diego Gas & Electric (“SDG&E”) as a result of the authorizations in Track 4 of the long-term procurement plan (“LTPP”) proceeding. This petition is particularly timely in that on July 2, 2014 SDG&E filed its Application 14-07-009 seeking approval to partially fill the needs identified in the Decision.³ The SDG&E Application seeks to allocate the costs incurred as a result of the agreement described therein pursuant to the CAM. Given this filing, it is important to determine precisely the procedural requirements and the evidentiary showing necessary to determine how and/or whether the CAM should apply.

The Decision states as follows:

We find that the procurement authorized in this decision is for the purpose of ensuring local reliability in the SONGS service area, for the benefit of all utility distribution customers in that area. We conclude that such procurement meets the criteria of Section 365.1(c)(2)(A)-(B). Therefore, SCE and SDG&E shall allocate costs incurred as a result of procurement authorized in this decision, and approved by the Commission.⁴

Further, Ordering Paragraph 13 directs that:

In applications for contract approval, Southern California Edison Company and San Diego Gas & Electric Company shall recommend a method of cost allocation appropriate for the resources being procured as authorized in this decision, either consistent with the cost allocation mechanism approved in Decision (D.) 06-07-029, D.07-09-044, D.08-09-012, D.11-05-005 and D.13-02-015 or through another Commission-authorized method.⁵

³ Application of San Diego Gas & Electric Company (U902E) for Authority to Partially Fill the Local Capacity Requirement Need Identified in D.14-03-004 and Enter into a Purchase Power Tolling Agreement with Carlsbad Energy Center, LLC.

⁴ Decision, at p. 120.

⁵ Id, at p. 147.

One interpretation would be that CAM is already approved for Track 4 procurement. Another interpretation would be that the ultimate decision about CAM for the Track 4 procurement appears to be deferred until specific applications are brought before the Commission. This inconsistency within the final Decision, coupled with statements made at the March 13, 2014, Commission meeting at which the Decision was adopted, as well a review of the modifications that were made to the proposed decision with respect to CAM, all suggest that a more nuanced conclusion about this subject is appropriate and that the final Decision should be modified accordingly, as discussed in the following section of this Petition.

II. Proposed Modification

The following is a transcript⁶ of Commissioner Peterman's remarks at the March 13 Commission meeting:

The other big topic I am concerned about in this decision relates to the policy of allocating reliability costs of the resources procured as a result of this decision through the Cost Allocation Mechanism. In the time I have been here I've noticed that this issue comes up repeatedly and I'm not convinced that we are dealing with the issue of the allocation of the costs to customers of competitive providers appropriately. I appreciate the modifications made this week to the decision to acknowledge that while this decision allows the procurement authorized here to be eligible for CAM treatment, it doesn't specifically authorize CAM treatment for specific resources. There are a lot of nuances here in how to think about cost allocation depending on whether we're talking about demand response, energy efficiency, storage or gas plants. So while I'm not completely satisfied with how we are treating this issue in this decision, I encourage all of us to scrutinize the utility proposals closely to determine appropriate cost allocation when it comes time for us to approve cost allocation with individual projects, especially considering the increasing requirements for ESPs and CCAs to directly procure reliability and preferred resources. At least speaking for myself, I am not convinced that it is fair for all costs for procurement authorized today to be allocated through CAM in the absence of additional criteria or a general policy

⁶ As there is no formal transcript of Commission meetings, this was prepared by AReM and DACC through listening to the video of the meeting and transcribing the Commissioner's remarks accordingly. While it is believed to be accurate, it does not represent a formal transcript.

framework in which we should consider these costs. With these comments in mind, I shall support this item. [Emphasis added]

A review of the revised final decision indicates that there was an intent to conform the final decision to address Commissioner Peterman’s concerns, but unfortunately the changes made do not fully comport with her comments. First, the only change to the original CAM discussion in Section 8 of the PD was as follows:

In most cases we expect this allocation to be consistent with D.13-02-015 and the CAM adopted in D.06--07--029, D.07-09-044, D.08-09-012 and D.11-05-005, but there may be resources where an existing alternative method of allocating resources costs may be preferred; for example, cost may be recoverable through the Energy Program Investment Charge. As SCE states in its Reply Comments on the Proposed Decision at 3, it will “propose an RA allocation method in its application for approval of the results of its LCR RFO when those results are fully understood.” We will require that, in applications for contract approval, the IOU shall recommend a method of cost allocation appropriate for the resource being procured.⁷

Second, the PD was also modified to list changes to the original draft. With regard to CAM, it only says, “Clarification that the CAM may not be the only Commission-authorized cost allocation method which may be appropriate for certain resources (based on comments of SCE).”⁸ Note that there is nothing said here with regard to a future determination of whether CAM itself is appropriate. Rather, the changes relate to the method of cost allocation to be used.

Next, Conclusion of Law 51 was modified as follows:

51. The cost allocation mechanism established in D.06-07-029 and refined in D.07-09-004, D.08-09-012 and D.11-05-005 (and as applied in D.13-02-015) remains reasonable for application in this proceeding without modification, and is fair and equitable as required by Section 365.1(c)(2)(A)-(B). Other Commission-authorized cost allocation methods may instead be appropriate for certain resources.

⁷ Decision, at p. 120.

⁸ Id at p. 123.

Finally, Ordering Paragraph 13 was modified as follows:

13. In applications for contract approval, Southern California Edison Company and San Diego Gas & Electric Company shall ~~allocate costs incurred as a result of procurement~~ recommend a method of cost allocation appropriate for the resources being procured as authorized in this decision and approved by the Commission, either consistent with the cost allocation mechanism approved in Decision (D.) 06-07-029, D.07-09-044, D.08-09-012, D.11-05-005 and D.13-02-015 or through another Commission-authorized method.

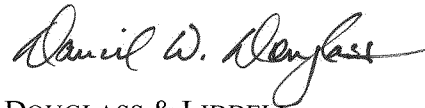
In summary, Commissioner Peterman's critical statement is that, "I appreciate the modifications made this week to the decision to acknowledge that while this decision allows the procurement authorized here to be eligible for CAM treatment, it doesn't specifically authorize CAM treatment for specific resources." AReM and DACC believe that the intent of the changes to the PD with respect to CAM was to have the applicability and appropriateness of CAM to Track 4 procurement evaluated with each application made by the utilities. However, the language in the Decision is not clear, and could be read to give parties only the ability later to argue over which method of cost allocation to DA/CCA customers is appropriate, but not whether such cost allocation itself is appropriate.

As noted above, the first of SDG&E's Track 4 applications has already been filed. SCE's Track 4 applications will also undoubtedly soon be before the Commission. Therefore, AReM and DACC believe that the final Decision should be clarified to provide that while it allows the procurement authorized therein to be eligible for CAM treatment, it did not specifically authorize CAM treatment for specific resources. Rather, that final determination is to be made upon the filing of the procurement applications authorized in the Decision upon a showing by each utility as to what cost allocation method would be justified and appropriate. Specific changes to accomplish this objective are provided in Attachment A to this Petition.

III. Conclusion

The imprecision and inconsistencies in the final decision can and should be rectified. AReM and DACC ask that the Commission make the changes proposed in Attachment A and thank the Commission for its attention to this Petition.

Respectfully submitted,



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Attachment A
Proposed Revisions to the Decision

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The basic question related to CAM in this decision is whether procurement authorized in this decision should be treated any differently from procurement authorized in D.13-02-015. ~~There is no significant difference between procurement authorized in this decision and procurement authorized in D.13-02-015. In both cases, procurement is pursuant to local reliability determinations starting with ISO studies for this purpose, as modified by our analysis. We find that the procurement authorized in this decision is for the purpose of ensuring local reliability in the SONGS service area, for the benefit of all utility distribution customers in that area. We conclude that such procurement may meets the criteria of Section 365.1(c)(2)(A)-(B). Therefore, and that SCE and SDG&E shall~~ may request authority to allocate costs incurred as a result of procurement authorized in this decision, and approved by the Commission in their respective applications for contract approval. In most cases we expect this allocation to be consistent with D.13-02-015 and the CAM adopted in D.06-07-029, D.07-09-044, D.08-09-012 and D.11-05-005, but there may be resources where an existing alternative method of allocating resources costs may be preferred; for example, cost may be recoverable through the Energy Program Investment Charge. As SCE states in its Reply Comments on the Proposed Decision at 3, it will “propose an RA allocation method in its application for approval of the results of its LCR RFO when those results are fully understood.” We will require that, in applications for contract approval, the IOU may request authority to allocate costs and, if such a request is made, shall recommend a method of cost allocation appropriate for the resource being procured.

Conclusion of Law 51:

51. The cost allocation mechanism established in D.06-07-029 and refined in D.07-09-004, D.08-09-012 and D.11-05-005 (and as applied in D.13-02-015) ~~remains~~ may be reasonable for application in this proceeding without modification, and ~~is~~ may be fair and equitable as required by Section 365.1(c)(2)(A)-(B). Other Commission-authorized cost allocation methods may instead be appropriate for certain resources.

Ordering Paragraph 13:

13. In applications for contract approval, Southern California Edison Company and San Diego Gas & Electric Company may request authority to allocate costs and, if requested, shall recommend a method of cost allocation appropriate for the resources being procured as authorized in this decision, either consistent with the cost allocation mechanism approved in Decision (D.) 06-07-029, D.07-09-044, D.08-09-012, D.11-05-005 and D.13-02-015 or through another Commission-authorized method.