

**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)

**COMMENTS OF TERRA-GEN POWER, LLC ON
PROPOSED DECISION**

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Dated: August 18, 2014

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Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, Terra-Gen Power, LLC submits its comments on the Proposed Decision (PD) of Administrative Law Judge David Gamson denying Terra-Gen’s petition for modification of Decision (D.) 13-02-015.

**I.
THE PD MISSTATES TERRA-GEN’S REQUEST**

The PD errs because it misunderstands and consequently misrepresents the central point of Terra-Gen’s petition. The PD’s summary of Terra-Gen’s request is that the petition “essentially seeks to require SCE [Southern California Edison Company] to use specified LEFs [Locational Effectiveness Factors] in evaluating responses to its RFO [Request for Offers] pursuant to its approved procurement plan, . . .”¹ or “to prevent SCE from using more recent information than was available at the time SCE issued its RFO.”² However, the focus of Terra-Gen’s petition was not the changes in the values of LEFs that SCE used in connection with the

¹ PD, p. 4.

² PD, p. 8.

Track 1 procurement authorized in D.13.02-015; rather, Terra-Gen was concerned that LEFs were improperly transformed from one of several quantitative factors used to value bids in the Track 1 RFO process to a threshold criterion that eliminated some projects from further consideration, regardless of the value of their other attributes. As Terra-Gen stated in its petition:

In effect, one qualitative element among many considered as part of SCE's least-cost, best-fit evaluation has been transformed into a threshold screen that precludes further consideration of a resource's other attributes in the determination of the resource's value.³

The PD fails to recognize that Terra-Gen's main concern was the change in the evaluation process in the middle of that evaluation, not the use of LEFs that Terra-Gen and other bidders understood were subject to change as the electric system changed. Terra-Gen understood that LEFs would be used as described in Ordering Paragraph 4(c) of D.13-02-015:

The consideration of costs and benefits must be adjusted by their relative effectiveness factor at meeting the California ISO identified constraint.

Terra-Gen understood that elements of the valuation process would change over the time required to complete the RFO process. For example, long-term forecasts of natural gas prices might change, increasing the value of some projects and decreasing the value of others. Similarly, the value of local Resource Adequacy capacity might change, benefiting some projects and disadvantaging others.

Thus, Terra-Gen understood, based on the clear language of D.13-02-015, that LEFs would be used to adjust the "consideration of costs and benefits" presented by bids in the

³ Petition, p. 2. To be clear, Terra-Gen's petition argued for stability in the RFO and suggested that LEFs and other qualitative variables should be frozen at some logical point, possibly including the date that bids are submitted. Terra-Gen's larger point, however, concerned the change in SCE's use of LEFs in the bid evaluation process.

RFO and the changes in the valuation of projects could result if LEFs changed. Terra-Gen did not understand, and nothing in D.13-02-015 suggested, that SCE would modify its bid evaluation process, without prior notification, mid-way through the process, with the result that projects would be arbitrarily barred from further consideration based solely on unstated assumptions about the LEFs in their geographic location, and that their costs and benefits would no longer be considered. This transformation of LEFs from one of several qualitative considerations affecting the valuation of a project to a threshold screen that eliminated projects from further consideration, without regard to their value, is the subject of Terra-Gen's petition.

II.
THE REASONS THE PD GIVES FOR REJECTING TERRA-GEN'S PETITION
REFLECT THE PD'S MISUNDERSTANDING OF TERRA-GEN'S POSITION

The PD offers three reasons for rejecting Terra-Gen's petition. Each of these reasons reflects the PD's misunderstanding of Terra-Gen's request.

First, the PD notes that the Commission did not intend to micromanage SCE's RFO or SCE's consultation with the California Independent System Operator (CAISO) to determine the best procurement locations. The PD concludes that "Terra-Gen's proposal would unnecessarily and unreasonably constrain SCE and its consultation with the CAISO, based on the perception of the results of such consultation."⁴ Terra-Gen's concern, however, was not with the consultation between SCE and the CAISO; Terra-Gen was concerned about how SCE incorporated the results of the consultation in the bid evaluation process. In particular, in the middle of the RFO evaluation, the CAISO shifted its LEF analysis. Instead of calculating LEFs for each of 27 nodes, as it had previously, the CAISO split the Western LA sub-area into three zones and calculated LEFs on a zonal basis. Neither the basis for the creation of three zones nor the LEFs associated with each zone has been revealed, but SCE used the CAISO's results to

⁴ PD, p. 9.

eliminate bids from projects located in all but the southwest LA zone. Thus, rather than using LEFs to develop the comparative value of various bids, SCE used the CAISO's revised results to restrict the remainder of its evaluation to a single zone. It wasn't Terra-Gen's proposal that "unnecessarily and unreasonably" constrained SCE; it was SCE's use of the effectiveness information developed by the CAISO that unnecessarily and unreasonably constrained SCE's consideration of projects to a single, narrow geographical area and significantly reduced the number of competitors and the intensity of competition in the RFO.

Second, the PD states that Terra-Gen's proposal would conflict with the Commission's intention to give SCE the means to adapt to changing technical circumstances. Terra-Gen understands the need to adapt to changing circumstances and to accommodate new technical information. But that was not the point of Terra-Gen's petition. Again, Terra-Gen was concerned that SCE used the new information in a way that is contrary to how it said it would use LEFs in its procurement plan and how the Commission said it should use LEFs in Ordering Paragraph 4(c) of D.13-02-015, *i.e.*, to adjust the consideration of costs and benefits. Instead, SCE used this information to eliminate certain further consideration of costs and benefits of certain project due solely to their location on the grid.

Third, the PD concludes that there is no evidence that SCE misled bidders in the RFO. The PD errs because it focuses solely on whether SCE indicated that LEFs might change. Although Terra-Gen did not allege that SCE had misled bidders, the fact is that SCE used LEFs in a way that was not mentioned in the RFO materials or in SCE's procurement plan and failed to use LEFs in the manner prescribed by SCE in the RFO materials. Rather than using LEFs as a qualitative factor, and one of several qualitative factors, in the determination of the net value of a

bid, SCE bestowed a gateway function on the LEFs, so that only bids from projects located in the southwest LA zone would be considered further.

III.
THE PD ERRS BY FAILING TO CONSIDER HOW SCE'S CHANGED EVALUATION PRACTICES COULD AFFECT RATEPAYERS

Terra-Gen's petition pointed out that SCE's use of LEFs could result in projects of lesser value being selected over higher-value projects in one of the disfavored zones:

Terra-Gen's independent analysis confirms that not all substations in the southwest zone are 100% effective, as the CAISO's study suggests, and that the difference in LEFs for nodes in different zones are in many instances less than the differences between nodes within a single zone. The wide variability in nodal LEFs within a CAISO zone, and the convergence of LEF values between substations that are in close proximity, but were assigned to different zones, emphasizes that the use of zonal rather than nodal LEFs can be misleading and that LEFs should be no more than a lesser factor in bid evaluation, not a threshold criterion that will exclude projects without consideration of their other attributes.⁵

The CAISO has not revealed (1) how it drew the boundaries between zones or even how it developed zonal LEFs; (2) how many MWs are actually needed to satisfy the contingency if all resources were procured in the most effective location;⁶ or (3) what the next contingency and LEFs are for the residual authorized MWs. It seems illogical and contrary to the physical traits of the electric system to conclude that a unit in one location will be highly effective in addressing a contingency while a nearby plant with a similar relation to the grid will

⁵ Petition, p. 9.

⁶ Terra-Gen's independent expert determined that only 800 MW of new generation is needed to solve the n-1-voltage collapse contingency if the generation is located at a node that is 100% effective, thus allowing procurement of remaining resources over a broader portion of the Western LA Basin, consistent with the authorization of D.13-02-015. See Attachment to Terra-Gen's Reply to Responses to Petition for Modification, June 26, 2014.

have no effectiveness.⁷ That, however, is the effect of the CAISO's zonal analysis and SCE's use of that analysis. To the extent that projects of lesser value are selected over projects of higher value merely because of SCE's transformation of the use of LEFs from one factor in the valuation of a project to a screen that eliminates all but projects located in Southwest LA zone, ratepayers will be required to pay excessive costs.

The 2012 LTPP Track 1 proceeding included extensive testimony and briefs in a painstaking effort to determine resource needs, resource types and acceptable locations for the benefit of ratepayers. In that process, locational effectiveness was acknowledged as an element of the final evaluation process but never elevated to an eligibility factor in the final determination of selected resources. On the contrary, resources connected at any of the 27 delivery points with LEFs ranging from 2% to 54% could have been selected and qualified for selection based on the LEFs that were known at the time the solicitation was issued and shortlist decisions were made. Yet without the benefit of a transparent public process or at a minimum a detailed nodal analysis supporting the zonal assertions, SCE is elevating LEFs to a level of eligibility based on incomplete and inaccurate information. It seems illogical and counter to the responsibilities and goals of the Commission that over \$4 billion of contract commitments for ratepayers are being determined without a detailed vetting of the determination and application of LEFs.

Terra-Gen understands that not all bidders' projects will be selected for power purchase agreements, but a fair, apples-to-apples comparison between eligible projects will allow the Commission and ratepayers to be assured that the least-cost/best-fit resources have in fact been selected. The PD errs because it fails to understand and recognize that SCE's use of LEFs can result in excessive costs for ratepayers.

⁷ In fact, Terra-Gen's independent expert found that two plants on either side of the zonal boundary differed in effectiveness by only 5 to 8% whereas the LEFs associated with two plants located within the Southwest LA zone differed by almost 20%.

IV. **CONCLUSION**

For the reasons stated in these comments, Terra-Gen respectfully asks the Commission to modify the PD, grant Terra-Gen's petition, and (1) affirm, consistent with Ordering Paragraph 4(c), that effectiveness factors should be used to adjust the valuation of a proposed project, but should not be used as an eligibility requirement to eliminate otherwise viable projects from submitting final bids, and (2) conduct a public workshop where the CAISO would be invited to explain its assumptions and LEF calculations, SCE would explain how it proposes to use LEFs in its bid evaluation, and the Commission can respond by providing specific guidance on how LEFs should be used in bid evaluation in the procurement process. With respect to item (2), an alternative would be to have the Commission authorize SCE to hire a third party expert to conduct the LEF assessment necessary to support the resource selection process and assure that the least-cost/best-fit resource is selected. The Commission, SCE, and ratepayers would benefit from having the best available information to support SCE's procurement decisions. The RFO has been delayed now from its original timeline and so there is time to provide much needed transparency to the procurement process as it relates to locational effectiveness.

Respectfully submitted August 18, 2014.

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