

**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)

**REPLY COMMENTS OF CAITHNESS ENERGY, L.L.C.
IN SUPPORT OF PROPOSED DECISION**

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I. INTRODUCTION

Pursuant to Rule 14.3(d) of the Commission’s Rules of Practice and Procedure, Caithness Energy, L.L.C. (“Caithness”) respectfully submits this brief reply to the comments filed by Terra-Gen Power, LLC (“Terra-Gen Comments”), on the Proposed Decision of Administrative Law Judge David Gamson, issued July 29, 2014. The Proposed Decision would deny a June 3, 2014 Petition for Expedited Modification of Decision 13-02-015, filed by Terra-Gen (“Petition”). Caithness fully supports the Proposed Decision, and urges that it be adopted by the Commission without change.¹

II. BACKGROUND

Terra-Gen’s Petition concerns an ongoing Request for Offers (“RFO”), which Southern California Edison Company (“SCE”) is conducting at this time for local capacity resources in the Los Angeles Basin. Specifically, in its Petition, Terra-Gen asked the Commission to require SCE to use local effectiveness factors “as of the date the RFO is issued” (Petition at 16.), thus

¹ Caithness requested party status, for the limited purpose of participating in the proceedings concerning the Terra-Gen Petition. That request initially was denied, but Caithness recently renewed its request for party status, and the matter is now pending before Administrative Law Judge David Gamson. Caithness asks that its Reply Comments be given due consideration in these proceedings.

precluding SCE from using updated local effectiveness factors (“LEFs”) in evaluating bids. The July 29 Proposed Decision would deny Terra-Gen’s Petition.

In its Comments, Terra-Gen claims the Administrative Law Judge misconstrued the Petition, and argues that the Commission should overrule the Proposed Decision and grant the Petition. Terra-Gen argues that the “focus” of its Petition was SCE’s use of local effectiveness factors as “a threshold criterion that eliminated some projects from further consideration, regardless of the value of their other attributes.” (Terra-Gen Comments, p. 2.)

III. REPLY TO TERRA-GEN’S COMMENTS

Contrary to Terra-Gen’s claim, the Administrative Law Judge did not misunderstand what Terra-Gen sought. The specific modification that Terra-Gen proposed to D.13-02-015 was to add the words “as of the date the RFO is issued” in two of the Ordering Paragraphs D.13-02-015. Thus, it is quite clear that the relief sought by Terra-Gen was to prohibit SCE from using updated local effectiveness factors to evaluate bids, after the date the RFO was issued.

Strikingly, in a footnote on page 2 of its Comments, Terra-Gen now appears to distance itself from its own Petition. “To be clear,” the footnote reads, “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.” (Comments at 2, fn. 3.)

But this is a misleading characterization. In its Petition, in particular in a section entitled “Proposed Modifications,” at page 16, Terra-Gen set forth the specific modifications it sought (as Rule 16.4(b) of the Rules of Practice and Procedure requires). The Petition there stated:

- Ordering Paragraph 4(a) should be modified to read: “The resource must meet the identified reliability constraint identified by the California Independent System Operators [sic] (ISO) as of the date the RFO is issued;”

- Ordering Paragraph 4(l) should be modified to read: “Use of the most up-to-date effectiveness ratings as of the date the RFO is issued.”

Thus, Terra-Gen’s contention that its Petition merely “argued for stability and suggested that LEFs and other qualitative variables should be frozen at some logical point, possibly including the date that bids are submitted” (emphasis added) is flatly contradicted by the Petition’s express text. Indeed, all three of the underscored phrases are nowhere to be found in the Petition. Terra-Gen did not seek any change for “other qualitative variables,” beyond local effectiveness factors. It did not argue that the local effectiveness factors SCE uses “should be frozen at some logical point...” (As noted, the Petition was quite clear that updating of local effectiveness factors should cease “as of the date the RFO is issued.”) And Terra-Gen did not seek to halt the updating as of “the date that bids are submitted.” Again, Terra-Gen expressly stated that the updating should cease “as of the date the RFO is issued.” In short, it is not Judge Gamson but Terra-Gen itself who now misconstrues the Petition.

Terra-Gen in its Comments also attempts to reintroduce doubt as to the validity of the local effectiveness analysis and conclusions reached by the California Independent System Operator (“CAISO”). The Proposed Decision properly refused Terra-Gen’s invitation to undertake a debate over the validity of the CAISO studies and analysis, and Terra-Gen’s Comments provide no new information to justify rejecting this determination.

Finally, Terra-Gen claims the Proposed Decision will impose unnecessary costs on ratepayers (Comments, p. 5-6), but this argument does not withstand scrutiny. Terra-Gen completely omits any reference to the closure of San Onofre Nuclear Generating Station (“SONGS”), and the impact this has had on SCE’s need for capacity resources in the Los Angeles Basin. On the other hand, the Proposed Decision, at page 9, recognized that the SONGS closure was “a major reliability event” that properly needs to be accounted for in SCE’s bid

evaluations. In effect, Terra-Gen is demanding that SCE be required to ignore the SONGS closure, which plainly would not be in the best interest of ratepayers. By the same token, ratepayers should only pay for local capacity resources that provide a discernible benefit, and not be burdened with costs for facilities that do not.

IV. CONCLUSION

For the reasons stated above, the Commission should adopt the Proposed Decision.

Respectfully submitted: August 25, 2014

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