

**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)

**RESPONSE OF PACIFIC GAS AND ELECTRIC
COMPANY (U 39 E) TO THE 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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Dated: August 28, 2014

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Pursuant to Rule 16.4 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) provides this response to the July 29, 2014, *Petition for Modification of Decision 14-03-004 of the Alliance for Retail Energy Markets and the Direct Access Customer Coalition*. The Commission should reject the Alliance for Retail Energy Markets/Direct Access Customer Coalition (AReM/DACC) petition.

I. THE COMMISSION SHOULD REJECT THE AReM/DACC REQUEST TO REMOVE A KEY FINDING FROM D.14-03-004

An examination of the wording changes to Decision (D.)14-03-004 that AReM/DACC are requesting, which are set forth in Attachment A to their petition but poorly described, at best, in the body of their petition, reveals what AReM/DACC are seeking. AReM/DACC are seeking elimination of the key finding in D.14-03-004 that the procurement authorized in the decision meets the criteria of Section 365.1(c)(2)(A)-(B) of the Public Utilities Code. That key finding, based on the evidence presented in the proceeding, should not be overturned in response to a petition to modify that does not make reference to any record evidence whatsoever, let alone any record evidence conflicting in any way with that key finding.

In D.14-03-004 the Commission determines that:

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).

When the criteria of section 365.1(c)(2)(A)-(B) are met, then the Commission is to ensure that the net capacity costs of the generation resources being procured are to be allocated on a fully non-bypassable basis, as set forth in more detail in the statute.^{1/}

AReM/DACC propose to change

We conclude that such procurement meets the criteria of Section 365.1(c)(2)(A)-(B)

to

We conclude that such procurement may meet ~~meets~~ the criteria of Section 365.1(c)(2)(A)-(B).^{2/}

This proposed change should be rejected. The key finding in the decision is fully supported by the record. As the Commission notes in the decision, the authorized “procurement is pursuant to local reliability determinations starting with [California Independent System Operator] studies for this purpose, as modified by our analysis.”^{3/} The analysis presented in the proceeding by the California Independent System Operator (CAISO) as well as other parties fully establishes the record on which the Commission’s determination is based.

AReM/DACC present absolutely nothing in their petition to justify their proposal, which they bury in their proposed edits to the text of the decision, to overturn a key finding in D.14-03-004. As noted above, AReM/DACC make no reference to the record at all in their petition. The only information they reference is Commissioner Peterman’s comments at the March 13 Commission meeting.^{4/} Putting aside whether it is appropriate for AReM/DACC to attempt to

1/ Public Utilities Code section 365.1(c)(2)(A).

2/ AReM/DACC Petition for Modification, Attachment A, proposed revisions to page 120 of D.14-03-004.

3/ D.14-03-004, p. 120.

4/ AReM/DACC Petition for Modification, pp. 3-4.

use a Commissioner's comments at the decision conference where the Commission adopted the decision, comments made in support of the decision, no less, as a basis for requesting a modification to the decision, nothing in Commissioner Peterman's quoted comments takes issue with the finding that "such procurement meets the criteria of Section 365.1(c)(2)(A)-(B)."

In short, AReM/DACC provide no support for their request that a key finding of D.14-03-004, that procurement authorized by the decision meets the criteria of Section 365.1(c)(2)(A)-(B), be overturned. Therefore, the AReM/DACC request should be denied.

II. CONTRARY TO AReM/DACC'S ASSERTIONS, NO CLARIFICATION OF D.14-03-004 IS NECESSARY OR APPROPRIATE

Nor do AReM/DACC provide justification for any of the other changes they propose be made to D.14-03-004. The closest that AReM/DACC come to identifying their specific concern with D.14-03-004 is near the end of their petition, where they state

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.^{5/}

To the extent that AReM/DACC are asserting that the decision is unclear on whether the criteria of section 365.1(c)(2)(A)-(B) are met, they are wrong. As discussed above, the decision is clear, the criteria are met, and the AReM/DACC proposal to eliminate that key finding is unjustified and should be rejected.

Commissioner Peterman's comments referenced by AReM/DACC go to cost allocation, and the use of the "cost allocation mechanism" (CAM). But no clarification is necessary in this regard, either. As AReM/DACC acknowledge, D.14-03-004 already provides that in the applications for procurement contract approval the requesting utility is to recommend an appropriate method of cost allocation,^{6/} and that other Commission-authorized cost allocation

5/ AReM/DACC Petition for Modification, p. 5 (emphasis in original).

6/ AReM/DACC Petition for Modification, p. 4 (citing D.14-03-004, p. 120).

methods [other than CAM] may instead be appropriate for certain resources.^{7/} There is no need for further clarification on this point.

It may be that AReM/DACC are attempting to use their petition as a way to open the door for them to relitigate, in the upcoming applications for procurement contract approval, the conclusion that procurement authorized in D.14-03-004 meets the criteria of Section 365.1(c)(2)(A)-(B). If so, that attempt should be rejected. The issue was litigated and the Commission's determination on this point, fully supported by the record, is clear.

III. CONCLUSION

For the foregoing reasons, PG&E respectfully requests that the AReM/DACC petition for modification of D.14-03-004 be denied.

Respectfully Submitted,
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By: /s/ Mark R. Huffman
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^{7/} AReM/DACC Petition for Modification, p. 4 (citing D.14-03-004, Conclusion of Law 51).