

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 THE OFFICE OF RATEPAYER ADVOCATES  
AND THE UTILITY REFORM NETWORK 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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August 28, 2014

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## I. INTRODUCTION

Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission, the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN) submit this response<sup>1</sup> to the “Petition for Modification of Decision 14-03-004 of the Alliance for Retail Energy Markets and the Direct Access Customer Coalition” (PFM), which was filed on July 29, 2014. The PFM requests that the Commission modify Decision (D.) 14-03-004. The PFM purports to seek:

“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.”<sup>2</sup>

Contrary to the PFM’s claim that D.14-03-004 (the Decision or Track 4 Decision) is unclear on the issue of how the CAM will apply to Track 4 procurement authorization, the Decision plainly found that:

“the procurement authorized in this decision is for the purpose of ensuring local reliability in the [San Onofre Generation Stations] SONGS service area, for the benefit of all utility distribution customers in that area. We conclude that such procurement meets the criteria of [Public Utilities Code] 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.”<sup>3</sup>

There is therefore no need to modify D.14-03-004, and the Commission should reject the PFM. The import of D.14-03-004 is that utilities can propose alternate allocation methods only for preferred resources, which might be treated differently than “generation resources” as specified in Section 365.1(c)(2)(A) even when needed to meet system or local reliability.

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<sup>1</sup> In accordance with Rule 1.8(d) of the Commission’s Rules of Practice and Procedure, counsel for ORA has been authorized to submit this response on behalf of TURN.

<sup>2</sup> PFM, p. 2.

<sup>3</sup> D.14-03-004, p. 120.

## II. DISCUSSION

### A. **The Decision recognized that all customers that benefit from resources procured to maintain local or system reliability should pay their fair share for the benefits they receive.**

The purpose of the CAM is to allocate the costs of new resources procured to ensure local or system reliability to all utility distribution customers, regardless of their generation provider.

The Decision explained that:

“CAM is based on the principle that reliability is a collective good and that the customers of Electrical Service Providers (ESPs) and Community Choice Aggregators (CCAs) will also benefit from investments in system reliability made by regulated utilities. The current CAM achieves this goal by subtracting the energy value of new generation out from long-term contracts for new generation and sharing the residual capacity costs equally among all bundled and un-bundled customers within the utility service-area.”<sup>4</sup>

The Decision recognized that if the Commission directs a utility to procure **new generation** to meet local or system area reliability needs for the benefit of all customers in a utility’s service area, then “the net capacity costs for the new capacity shall be allocated in a fair and equitable manner to all benefiting customers,” including utility bundled service customers, direct access [DA] customers, and community choice aggregator (CCA) customers.<sup>5</sup> The Decision found that the procurement it authorized “is for the purpose of ensuring local reliability in the SONGS service area, for the benefit of all utility distribution customers in that area” and therefore the cost of such procurement should be recovered pursuant to CAM.<sup>6</sup>

The CAM has historically applied to conventional generation resources that support system or local reliability, and Section 365.1(c)(2)(A) mandates that the net capacity costs of “generation resources ... needed for system or local area reliability needs” must be allocated to all benefitting customers, including DA and CCA. But D.14-03-004 directed the utilities to procure preferred resources as well as conventional resources to meet local reliability needs. D.14-03-004 recognized that CAM might not be an appropriate cost allocator for some of the preferred resources being procured to maintain reliability (storage, energy efficiency, distributed

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<sup>4</sup> D.14-03-004, p. 117.

<sup>5</sup> D.14-03-004, p. 119 (citing Public Utilities Code Section 365.1(c)(2)(A)-(B)).

<sup>6</sup> D.14-03-004, p. 120 (citing Public Utilities Code Section 365.1(c)(2)(A)-(B)).

generation) and directed the utilities to propose an appropriate method of cost allocation when they filed their applications for authorization of specific resources to meet Track 4 need.

The Track 4 Decision observed that 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.”<sup>7</sup> Thus, the cost of resources other than conventional generation resources might be better recovered through “an existing alternative method of allocating resource costs” and the Track 4 Decision directed that utility applications for specific resources recommend a method of cost allocation that is appropriate for the resources being procured.<sup>8</sup>

**B. The PFM misconstrues the Decision and Commissioner Peterman’s remarks as opening the door to reconsider whether CAM should apply to resources procured for the benefit of customers within the utility’s service territory.**

Ordering Paragraph 15 of the Decision requires 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.”

The PFM argues that this Decision language creates uncertainty:

“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.”<sup>9</sup>

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<sup>7</sup> D.14-03-004, p. 120. For example, since energy efficiency is collected from distribution customers through a non-bypassable distribution surcharge, incremental energy efficiency might be collected through the existing surcharge. *See e.g.* Public Utilities Code Section 381(b)(1).

<sup>8</sup> D.14-03-004, p. 120.

<sup>9</sup> PFM, p. 3 (emphasis added).

More importantly, the PFM uses this alleged uncertainty to propose changes (in Attachment A) that fundamentally undermine the entire rationale for the need authorization in D.14-03-004. The proposed changes would remove the text language explaining that the need determination in the Track 4 decision was made to ensure local reliability. There is absolutely no basis in the changes made to the original proposed decision, reflecting additional language concerning the allocation of costs of preferred resources, to indicate any intent to authorize resource procurement based on other justifications. In short, the Track 4 procurement authorization for conventional and preferred resources was entirely driven by the need for local area reliability.

The Commission should reject any modifications to D.14-03-004 that change this fundamental fact. The Decision determined that the Track 4 resources it authorized were “for the purpose of ensuring local reliability in the SONGS service area, for the benefit of all utility distribution customers in that area” and therefore met the requirements for cost recovery from all benefiting customers.<sup>10</sup> The Decision made clear that CAM is appropriate for conventional resources, but that methods of cost allocation other than CAM might be more appropriate for preferred resources, especially since some of those resources are already funded by existing non-bypassable charges. This conclusion cannot be construed as meaning that “the ultimate decision about CAM treatment for Track 4 procurement” should be deferred until the utilities submit applications requesting authorization to procure specific resources.

Nor does the “transcript” of Commissioner Peterman’s remarks at a Commission meeting support the modification requested by the PFM. According to the PFM, Commissioner Peterman recognized the “nuances [] in how to think about cost allocation depending on whether we’re talking about demand response, energy efficiency, storage or gas plants” and expressed concerns about “the allocation of the costs to customers of competitive Providers”.<sup>11</sup> As her examples illustrate, Commissioner Peterman was addressing the allocation of costs of preferred resources, and her remarks do not provide a reasonable basis for reversing the cost allocation of conventional generation resources required by Section 365.1(c)(1)-(2). Her remarks in no way imply any change to the purpose of the underlying need authorization, namely to meet local reliability needs.

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<sup>10</sup> D.14-03-004, p. 120.

<sup>11</sup> PFM, p. 3.

Even though CAM may not be appropriate for certain preferred resources, D.14-03-004 should not be “clarified” to allow litigation of whether the cost of resources procured to maintain system reliability should be allocated to all benefitting customers, including DA and CCA customers, because it would be inequitable for only bundled customers to bear the cost of maintaining system and local reliability, as well as inconsistent with Public Utilities Code Section 365.1(c)(2)(A)-(B).

### III. CONCLUSION

The Commission should deny the PFM. D.14-03-004 recognized that the procurement of resources other than traditional conventional generation might require different methods of cost allocation to ensure that all customers that benefit from new resources pay for those resources. Nothing in the Decision or the remarks of Commissioner Peterman support the PFM’s claim that the Decision should be modified to allow parties to litigate “whether such cost allocation itself is appropriate” when utilities file applications to procure Track 4 resources ordered by the Decision.

Respectfully submitted,

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August 28, 2014