## DEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.

Rulemaking 04-04-003 (Filed April 1, 2004)

# COMMENTS OF CARE TO THE DECEMBER 2, 2005 ASSIGNED COMMISSIONER'S RULING REGARDING NEXT STEPS IN PROCURMENT PROCEEDING

In the December 2, 2005, Assigned Commissioner's Ruling Regarding Next Steps in Procurement Proceeding the Assigned Commissioner has authorized the filing of comments by December 12, 2005 in reference to the Integrated Energy Policy Report (IEPR) proceeding, in which the California Energy Commission adopted the Committee Final Transmittal of 2005 Energy Report Range of Need and Policy Recommendations "parties where invited to comment on how the Transmittal Report can be used as an input in the 2006 proceeding" replacing the Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning under CPUC Docket R.0404003.

Parties should consider both the Transmittal Report, as well as the full record developed in the CEC's IEPR proceeding (much of which is carefully referenced in the Transmittal Report), in considering how the IEPR work can be a starting point for the 2006 LTPP proceeding. Parties should also consider whether any additional CEC inputs need to be updated as part for the 2006 LTPP proceeding, especially in light of the draft schedule proposal in Appendix A.

CAlifornians for Renewable Energy, Inc. (CARE) provides these comments in opposition to reference to the Integrated Energy Policy Report (IEPR) proceeding, in which the California Energy Commission (CEC) adopted the Committee Final Transmittal of 2005 Energy Report Range of Need and Policy Recommendations to the California Public Utilities Commission (Transmittal Report) on November 21, 2005 which is referenced repeatedly in this ACR and proposed to be used in the 2006

 $<sup>{\</sup>color{red}^{1}} CEC's \ Transmittal \ Report \ is \ available \ at: \ http://www.energy.ca.gov/2005 publications/CEC-100-2005-100-2005 publications/CEC-100-2005-100-2005-100-2005-100-2005 publications/CEC-100-2005-100-200-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2005-100-2$ 

proceeding. We object to this use of the IEPR until such time as the Parties are afforded an opportunity to cross examine the preparers of the 2005 IEPR. CARE objects to the utilization of the Integrated Energy Policy Report (IEPR) because of what we allege to be bias by the CEC Commissioners themselves in the preparation of the report in favor of Energy Service Providers (ESPs).

CARE is 501 (c) (3) corporations comprised of members whom are of low income people of color residential customers who are members of CARE who reside in the affected areas of both renewable and fossil fuel energy including natural gas infrastructure who will bear the disparate environmental and socioeconomic burden and the resulting rate increase that will surely result if so-called electric service providers (ESPs) like Calpine and Constellation are allowed to game the energy markets as was allowed to occur in 2000 and 2001 in the markets operated by the CAISO and California Power Exchange. CARE's members include, but are not limited to customers of the three Investor Owned Utilities (IOUs) Pacific Gas and Electric (PG&E), Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E). Fortunately for ratepayers the Commission has not chosen to side with ESPs<sup>2</sup> as has the CEC and the CAISO.

I.

CARE objects to the fact that the CEC's 2005 IEPR is to "be used as a basis to establish the range of need for the IOUs" in the ACR without the benefit of an evidentiary hearing while the CEC has demonstrated its bias in favor of the ESPs in the Confidentiality proceeding under Docket R0506040.

Integrated Energy Policy Report (IEPR) proceeding, the California Energy Commission adopted the Committee Final Transmittal of 2005 Energy Report Range of Need and Policy Recommendations to the California Public Utilities Commission (Transmittal Report) on November 21, 2005. As indicated in a March 2005 ACR, the CEC's Transmittal Report is expected to be used as a basis to establish the range of need for the IOUs. The Transmittal Report summarizes procurement-related policy

008/CEC-100-2005-008-CTF.PDF.

<sup>&</sup>lt;sup>2</sup> See Draft Decision at pages 85 and 87.

recommendations from the 2005 Integrated Energy Policy Report. In addition, the Transmittal Report provides the "CPUC with the data and analyses used by the Energy Commission to assess the demand forecasts and resource needs for the state's three largest investor-owned utilities (IOUs)." The report focuses on the IOU range of need, and specifically on the contractual net short for each IOU. The Transmittal Report provides information on IOU supply and demand, with a focus on the years 2009-2016. For the supply side, the CEC suggests that the Commission have the IOUs update information on renewables and other bilateral contracting when they file their long-term plans. For the demand side, the CEC suggests that the Commission: (1) use an updated demand forecast for 2007-2008 based on new developments using the demand forecast methodology used to establish the resource adequacy requirements, and (2) adopt and use the unmodified CEC staff annual forecast for 2009-2016 as the long-term planning forecast for the IOUs, IOU service areas, and planning areas. Other CEC IEPR documents referenced in the Transmittal Report, including the California and Western Electricity Supply Outlook Report from July 2005, provide an extensive record on the physical capacity supply outlook for the state, including the outlook for each IOU planning area.4

How can the CPUC use the CEC's 2005 IEPR when it has not been demonstrated beyond reasonable doubt to be an independent analysis by duly qualified experts as opposed to the opinions and hearsay of individual CEC Commissioners? CARE requests that as time allows that evidentiary hearings be held to allow Parties an opportunity to cross examine the preparers of the CEC's 2005 IEPR during the 2006 LTPP proceeding.

II.

The ESPs' interests have historically been represent by the activities of the California Independent System Operator (CAISO) board of directors as demonstrated by the Independent Energy Producers association's (IEP's) Executive Director Jan Smutney-Jones serving as the President of the CAISO board of directors during 1999 and in 2000 during the energy crises. The current CAISO board does not include any

*Id.*, p. 1.

<sup>&</sup>lt;sup>4</sup> See the following link for all documents related to the *California and Western Electricity Supply Outlook* 

member who represents the interests of retail end-user ratepayers of the IOUs. This is because of a fundamental design flaw in the method for the selection of members of the CAISO board that effectively disenfranchise retail ratepayer who are stakeholders in the CAISO's markets yet have no voting rights over the selection of the CAISO board. In June 2003 CARE brought a voting rights claim against the CAISO with the US Department of Justice for denying the voting rights to retail ratepayers and low income people of color residential customers in particular in selecting and serving on the CAISO board. The US DOJ has not yet replied to our complaint.

Because of the CAISO's prior practices, which are a matter of public record, and because the current CAISO board does not represent the interests of CARE's retail ratepayer members whom are low income people of color residential customers we object to the CPUC depending on the CAISO's forthcoming Statewide Transmission Plan during the 2006 LTPP proceeding which is a planning process which will incorporate the CEC recommendations from the IEPR process. Therefore we wish the CAISO be required during evidentiary hearings on the 2006 LTPP proceeding to demonstrate that its plan will identify high priority transmission projects that can be implemented in the short- and long-term while protecting retail ratepayer's interests as opposed to that of the ESPs.

III.

WHEREFORE, for the reasons set forth above, CARE respectfully requests you accept these comments on the "Assigned Commissioner's Ruling Regarding Next Steps in Procurement Proceeding".

Respectfully submitted,

Lyne Brown

Lynne Brown Vice-President

CAlifornians for Renewable Energy, Inc.

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#### Verification

I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12<sup>th</sup> day of December 2005, at San Francisco, California.

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Lyne Brown

Lynne Brown Vice-President CAlifornians for Renewable Energy, Inc. (CARE)

#### **Certificate of Services**

To reduce the burden of service in this proceeding, the Commission will allow the use of electronic service, to the extent possible using the electronic service protocols provided in this proceeding. All individuals on the service list should provide electronic mail addresses. The Commission and other parties will assume a party consents to electronic service unless the party indicates otherwise.

I hereby certify that I have this day served the foregoing document "Comments on Assigned Commissioner's Ruling Regarding Next Steps in Procurement Proceeding under CPUC Docket R.0404003. Each person designated on the official service list, has been served via e-mail, to all persons on the attached service list on December 12<sup>th</sup>, 2005 for the proceedings, R.0404003, and

R.0404025.

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