

**BEFORE 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 SEMPRA GLOBAL ON THE
ASSIGNED COMMISSIONER'S RULING DATED DECEMBER 2, 2005**

Theodore E. Roberts
Attorney for Sempra Global

101 Ash Street, HQ 13D
San Diego, CA 92101-3017
Telephone: (619) 699-5111
Facsimile: (619) 699-5027
E-mail: troberts@sempra.com

December 12, 2005

**BEFORE 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 SEMPRA GLOBAL ON THE
ASSIGNED COMMISSIONER'S RULING DATED DECEMBER 2, 2005**

I. INTRODUCTION

Pursuant to the schedule put forth in the *Assigned Commissioner's Ruling Regarding Next Steps in Procurement Proceeding* dated December 2, 2005 (the "ACR"), Sempra Global ("Global") hereby files its comments on the proposed Rulemaking. Specifically, Global comments on the issues to be resolved that are interrelated with the long term procurement plans of the three California investor-owned utilities ("IOUs"), including community choice aggregation ("CCA"), critical peak pricing, distributed generation, energy efficiency ("EE"), avoided costs and qualifying facility pricing, renewable portfolio standards ("RPS"), transmission planning, confidentiality rules, and resource adequacy ("RA"). Global also comments on the Commission staff's proposed schedule and issues for this proceeding, which was included as Appendix A to the ACR.

As requested by the ACR, Global confines these initial comments to process – that is – the timing and manner of resolution for the issues presented, rather than a substantive debate on those issues. Global will provide further feedback on discrete issues as they arise in the course

of this proceeding, and failure to address any issue in these comments should not be construed as either support or opposition for any issue discussed in the ACR or Appendix A.

In general, Global supports the integration of procurement-related dockets into the processing of this docket as a means of coordinating the various components to produce a result that will hopefully serve as a template for future proceedings. At the same time, Global disagrees with the characterization of some of the issues in Appendix A and the manner in which such characterization suggests they should be resolved. Appendix A appears to embrace a number of policy preferences that have been considered and rejected by the Commission, and with particular regard to electric service providers (“ESPs”), it proposes consideration of an unlawful expansion of the Commission’s authority.

In its comments below, Global addresses these deficiencies and offers its perspective on how the Commission should tailor this proceeding to achieve the stated goals of integrating the issues of the various proceedings into a single procurement planning process, furthering the goals of the Energy Action Plan (“EAP”) and achieving balanced, integrated regional procurement planning. Global offers its views on how to accomplish these goals without unlawfully expanding the Commission’s jurisdiction or resorting to artificial regulatory mechanisms to achieve fair cost allocation for resources.

II. COMMENTS ON THE ACR

The ACR begins by stating that the Commission will soon initiate a new Rulemaking to further address issues related to RA, along with a new Rulemaking on long term procurement planning. The ACR goes on to say that:

The future procurement proceeding will be the forum to consider a wide range of [long term procurement plan] LTPP issues. As with the existing procurement rulemaking, the Commission will use its new LTPP rulemaking to handle procurement policy issues that do not warrant a separate rulemaking and/or issues which

need to be considered in the context of our comprehensive procurement regulatory framework.

...

Among the procurement planning issues that are not covered in any of the procurement related dockets above that need to be addressed in a future procurement rulemaking are the following:

1. A review of the need for new generation in California, including consideration of temporary and/or permanent mechanisms (e.g., cost allocation and benefit sharing, or some other alternative) which can ensure construction of and investment in new generation in a timely fashion;
2. A review of long-term resource plans, including an integrated resource planning process for all IOU planning areas;
3. Updates to IOU procurement policies and practices; including review and approval of new 10-year procurement plans; and
4. Any procurement policy issues not handled in R.04-04-003 or other procurement related dockets.

ACR, at pp. 5-6

The ACR also invites additional comment on whether ESPs, CCAs and other non-IOU LSEs should be named as respondents, and the extent to which such entities should be required to file 10-year procurement plans.

The Commission has a head start on meeting the objectives of paragraph 1, above, with the implementation of RA. Global believes that RA should be the driving force behind resource planning, as the ACR seems to contemplate. Both the Commission's RA proceedings and AB 380 have emphasized the need for *all* LSEs to be *individually* responsible for meeting RA, and the initial compliance efforts are already underway. Because RA was envisioned as the primary vehicle for ensuring that adequate generating capacity is constructed and available to serve California, it ought also to be the primary focus of procurement planning and encouraging the timely construction of needed generation capacity.

In the soon-to-be-announced successor to the RA Rulemaking, which is alluded to in the ACR, the Commission should focus on issues related to the “counting” of both demand side resources and renewable resources, since they are at the top of the EAP loading order. Specifically, because a commitment to increased reliance on renewable generation to meet demand will be difficult unless a reliable system of “counting” the RA-eligible capacity value of those resources is adopted. This issue affects procurement planning in numerous ways, including its impact on developers of gas-fired or other more traditional generation, who have a vested interest in knowing how to calculate the capacity value of renewable generation for RA purposes. In discussing increased reliance on renewable energy, the ACR refers to the future Procurement Rulemaking as a place to coordinate, among other things, the Commission’s Investigation into the development of renewable energy transmission, I.05-09-005. This effort should be accorded high priority, consistent with its priority in the loading order.

Global agrees that resource planning on a regional basis, such as on an IOU service territory-wide basis, could benefit consumers. If given appropriate incentives for cooperation, IOUs, CCAs and ESPs may be able to jointly support generation additions, including generation from renewable resources and the transmission needed to support delivery of that generation. Joint sponsorship of transmission upgrades or new transmission lines could also be undertaken. The key to success in these efforts is an environment where customer choice, including DA and CCA is acknowledged, respected, and taken into account in the planning process. Such an environment of cooperation stands in marked contrast to the current environment, where endless bickering over subsidization, free riding and cost shifting is the norm.

The Commission recently made a significant policy decision when it rejected Southern California Edison’s proposal in Application No. 05-06-003 to acquire new generating capacity on behalf of all southern California loads and arbitrarily assign the costs of that capacity to all

loads in the region irrespective of need. Even though AB 380 requires the Commission to ensure equitable allocation of RA costs, it does not require the Commission to establish a regulatory mechanism for doing so. The Commission should continue along the path that it took in A. 05-06-003, and encourage the development of market-based solutions rather than regulatory mechanisms. In formulating a work plan for this proceeding, the issues should be framed in such a way that continuation of the status quo, or something similar, is not the expected outcome.

III. COMMENTS ON APPENDIX A

The ACR invites parties to comment on Appendix A, the staff's proposed work plan for this proceeding, including an outline of the proposed issues, a timeline for a series of workshops, and a proposal for integration of the various other related proceedings into this one. In response, Global offers its comments on discrete issues identified and/or questions asked by staff in Appendix A.

A. Cost and Benefit Sharing Mechanisms

Staff's proposal seems biased toward a regulatory solution, i.e., some formulaic allocation method that assigns costs to all LSEs within a specified region regardless of need. One of staff's suggestions includes a so-called "new portfolio standard" that would arbitrarily add new generation, and assign costs on some undefined basis. Global submits that such "standards" or mechanisms run counter to the direction the Commission, the California Independent System Operator ("CAISO") and parties have taken with respect to RA, and should not be considered.

The current RA regime places the responsibility on individual LSEs to acquire sufficient physical capacity to meet their forecast load plus a fifteen percent (15%) planning reserve margin, and to ensure that the RA capacity is available to the CAISO in all hours to meet the operational needs of the system. The RA capacity is further subject to deliverability

requirements, and additional requirements geared toward local reliability concerns will be implemented shortly. The Commission and Legislature have made it clear that each LSE is to be held responsible for *its own* needs. Any mechanism premised on a uniform cost spreading without regard to actual resource deficiencies would conflict with RA driven by individual LSE responsibility, and would provide incentives to free ride, under-procure, and otherwise engage in activity that undermines reliability.

The staff and Commission should focus on enforcing the existing RA requirements, further consideration of a capacity market, and on shoring up the regulatory environment in California to encourage new generation to be sited, financed and constructed here. Regulatory mechanisms to allocate costs by fiat should not be implemented, consistent with the Commission's recent policy direction.

B. Filing of Long-Term Resource Plans by ESPs

Global believes that addressing the issue of whether there should be a requirement for ESPs to file long-term procurement plans would be a mistake. The issue as framed in the ACR and Appendix A raises a question of whether such a requirement would be an unlawful attempt to expand the Commission's limited authority over ESPs. Moreover, spending time on this issue would possibly obscure the more important question, which is how can the Commission best to achieve resource security for all customers in California. As requested by the ACR, Global will not elaborate on this issue substantively, but notes its objection to its inclusion.

Further, the question of ESP long-term procurement should not be discussed in a vacuum, but in conjunction with the reinstatement of DA. Global questions whether any "long-term" procurement plan submitted by an ESP would be of any value to the proposed Rulemaking without the reinstatement of DA. With DA suspended, and until the restrictions on competitive retail markets are lifted, the outlook for ESPs is uncertain. If the Commission is serious about

using this proceeding as a vehicle to develop some form of integrated planning process, then the re-opening of direct access in California must be a part of that discussion. Otherwise, long-term ESP procurement plans are irrelevant. ESPs will be procuring capacity for their RA needs beginning in June of 2006, and the Commission and CAISO will be administering the RA requirement. No additional procurement information or “plan” should be required of ESPs.

The recent defeat of Proposition 80 by a substantial margin, and the Commission’s unanimous opposition to that ballot measure, are indicative of a continued public policy that includes retail choice. The Commission also recently unanimously approved a decision in the RPS proceeding that affirmed the legal point that subjecting all LSEs to the same standards does *not* mean that all LSEs have to be treated as though they are Commission-regulated public utilities.¹ ESPs are in limbo for the time being with respect to long term procurement planning, and need not – should not – be subject to the same regulatory oversight as IOUs.

To develop a successful integrated planning approach, all possible options must be considered, and the Commission should embrace future DA in its long term procurement planning discussions. With RA requirements fully in effect and serving as the driving force for resource additions, and with the presumed ability of IOUs, ESPs and CCAs to compete on a level playing field, a healthy and useful integrated planning dialogue can begin. Such dialogue ought to include the development of bilateral agreements or other cost allocation mechanisms that are based on the economic well being of all LSEs and their customers. As expressed above, this is a far better outcome, in Global’s view, than an allocation methodology imposed by regulatory fiat.

As noted in the third paragraph on page one of Appendix A, staff is indeed “asking the wrong question” when it asks if the Commission should consider a requirement for ESPs to file

¹ D.05-11-025, *mimeo*, at pp. 4-6; *id.*, at Conclusions of Law 2 and 3.

long-term procurement plans. Instead, staff and the Commission should focus on how to encourage and facilitate cooperative integrated planning among all LSEs. The goal should be to achieve resource security for all customers in California.

IV. CONCLUSION

Global appreciates the opportunity to comment on the issues identified in the ACR and the process set forth in Appendix A. It will be a monumental feat for the Commission and parties to successfully and smoothly integrate the myriad proceedings into a final product. The Commission has achieved significant progress already with the adoption of RA requirements, and initial compliance with those requirements is well underway. Global believes that the Commission should continue to let RA be the principal driver behind resource planning. Rather than focus on developing regulatory mechanisms to allocate resource costs without regard for need, the Commission should focus on establishing a collaborative planning process that includes customer choice and provides appropriate incentives for all LSEs to work together. ESPs long-term resource planning has already been adequately addressed by the adoption of RA requirements applicable to ESPs, and the Commission should not entertain any further requirements for ESPs.

Respectfully submitted,



Theodore E. Roberts
Attorney for Sempra Global

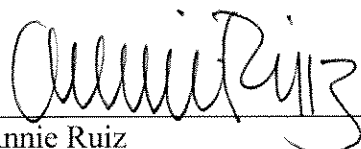
101 Ash Street, HQ 13D
San Diego, CA 92101-3017
Telephone: (619) 699-5111
Facsimile: (619) 699-5027
E-mail: troberts@sempra.com

December 12, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **COMMENTS OF SEMPRA GLOBAL ON THE ASSIGNED COMMISSIONER'S RULING DATED DECEMBER 2, 2005** on all parties of record in R.04-04-003 (List) by electronic mail. I have also sent hard copies by overnight mail to the assigned Commissioner, President Michael R. Peevey and the assigned Administrative Law Judge Carol A. Brown.

Dated at San Diego, California, this 12th day of December, 2005.



Annie Ruiz