

**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)

**WEST COAST POWER
COMMENTS ON ASSIGNED COMMISSIONER'S RULING
REGARDING NEXT STEPS IN PROCUREMENT PROCEEDING**

Joseph M. Paul
Senior Corporate Counsel
Dynergy Power Marketing, Inc.
2420 Camino Ramon
Building J, Suite 215
San Ramon, CA 94583

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joe.paul@dynergy.com.

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I. INTRODUCTION

Pursuant to the "Assigned Commissioner's Ruling Regarding Next Steps in Procurement Proceeding" dated December 2, 2005, West Coast Power LLC (WCP)¹ submits these comments on the goals of the future long-term procurement proceeding and the staff's proposed structure of the proceeding.

II. GENERAL COMMENTS

As stated in the Assigned Commissioner's Ruling (ACR) the Commission will initiate two new procurement proceedings in 2006.

"First, the Commission will initiate an Order Instituting Rulemaking (OIR) on resource adequacy, probably in December 2005, as the forum to consider future RA issues, including implementation matters related to existing RA requirements, as well as the extension of RA mandates to local area and multi-year requirements. Since a new rulemaking is imminent, it is not necessary to elaborate further here on the goals of a new RA proceeding.

¹ West Coast Power LLC is a partnership equally owned by subsidiaries of Dynegy Power Corp. and NRG West Coast LLC. It operates the following generating units: Cabrillo I LLC, located in Carlsbad, CA; Cabrillo II LLC, peaking units located throughout San Diego County; and El Segundo Power LLC, located in El Segundo, CA.

Second, the Commission will initiate a successor procurement OIR, slated for late January or February 2006, to handle the biennial long-term procurement planning cycle and other procurement issues. While the objectives of the next procurement rulemaking cycle will be established in the new OIR, an overview of initial thoughts about the goals of the upcoming proceeding is warranted here.”²

In addition to the above, WCP recommends that any future Resource Adequacy proceeding should also include the development of a tradable capacity market. WCP has been advocating the need for a capacity market for some time and the addition of this recommendation is consistent with the goals of the new proceeding. The CPUC Capacity Markets Whitepaper authored by the Energy Division should be the basis for the debate. WCP urges the Commission to act expeditiously in both proceedings. The primary goal of both proceedings should be the development of policies that promote new investment in generation in California.

III. GOALS

The ACR requested comments on the Goals of the 2006 Long-Term Procurement Proceeding.

Goal 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;

WCP Comment – WCP strongly supports this goal. It is consistent with the message to California policy makers that we have delivered for the last few years. For example, in SCE RFO Application 05-06-003 WCP commented that: “WCP urges the CPUC to immediately initiate an expedited proceeding to address the need for, and construction of, new generation to support CAISO grid reliability. The scope of the any successor proceeding must allow SCE, other LSEs, and affected parties to provide testimony on whether resource commitments made by one LSE in the form of long-term PPAs have reliability benefits that accrue to all customers in SP26 and, if so, whether such costs should be allocated to such customers.”³ In WCP’s opinion, this issue is the most important electricity issue facing California today and represents the key to getting new, critically needed generation built immediately in California and providing for a sustained flow of capital into California to support the robust electrical growth needs of the

² ACR Regarding Next Steps in Procurement Proceeding dated December 2, 2005, Pg 4.

³ WCP Comments in Response to SCE Motion to Withdraw Application 05-06-003, Pg 2.

fifth largest economy in the world.

Goal 2. A review of long-term resource plans, including an integrated resource planning process for all IOU planning areas;

WCP Comment – As stated in the ACR, the integrated resource plans (IRP) will be the primary forum for considering resource alternatives and will be reviewed in the context of procurement policies. One of the key procurement policies that WCP urges the Commission to include in this review is a policy on repowering plants that already exist within load pockets. This Commission has already adopted a policy on this topic in a previous Long Term Procurement Order (D.04-12-048):

"To this end, we agree that modernization of old, inefficient, and dirty plants should be among the IOU's first choices of resources. However we are concerned that the Least Cost Best Fit process would not allow positive attributes of a brownfield site to be fully considered or fairly assessed (for example, the risk of delay in construction of a new site). We disagree with SDG&E's position that the RFP process should automatically incorporate the positive attributes of the brownfield sites. It is generally good policy to consider brownfield sites before developing greenfield sites, because of existing infrastructure, being close to load centers, and many other benefits. **Therefore, we direct the IOUs to consider the use of brownfield sites first and take full advantage of their location before they consider new generation on greenfield sites** (*emphasis added*). If IOUs decide not to use brownfield, they must make a showing that justifies their decision."⁴

WCP has not observed any effect of the Commission's direction in the procurement actions of the utilities. There are several reasons why it is critical that an effective policy towards repowering existing plants must be adopted in the next procurement plan. California's growing capacity deficit in the SP26 region and the CEC's aggressive goals for power plant retirements are two such reasons. Thirdly, on January 1, 2006 the repowering bill AB 1576 (Nunez) will become law. The California Legislature and the Governor have declared that repowering policy is in the public interest. From Section 1 of the bill:

⁴ at pp 146-7.

“The Legislature finds and declares all of the following:

(a) It is in the public interest for the state’s electricity generating facilities to provide clean, reliable, efficient, and affordable electricity to the state’s electricity consumers.

(b) Certain existing electric generating facilities are strategically located and interconnected to gas transmission pipelines and the electric transmission system in a manner that optimizes their reliability, deliverability, their cost-effectiveness, and their ability to deliver electricity to load centers.

(c) Many of these existing electric generating facilities exhibit less than optimal environmental performance, reliability, and efficiency compared to facilities that have been more recently permitted to operate.

(d) According to the State Energy Resources Conservation and Development Commission, a number of these older, less efficient electric generating facilities are at a high risk of being retired in the next several years. As a result, their generating capacity, which establishes a valuable reserve margin for the state, helps to provide local reliability and voltage support, and alleviates transmission congestion, may no longer be available.

(e) Because of their strategic location and existing infrastructure, it is in the best interest of the state to encourage the replacement or repowering of these facilities.

(f) Investment in replacement or repowered electric generating facilities replaces our aging facilities with more efficient and cost-effective facilities that enhance environmental quality and provide economic benefits to the communities in which they are located.

(g) Therefore, it is in the public interest for the state to facilitate investment in the replacement or repowering of older, less-efficient electric generating facilities in order to improve local area reliability and enhance the environmental performance, reliability, efficiency, and cost-effectiveness of these facilities.

(h) An effective means for facilitating that investment, while ensuring adequate ratepayer protection, is to authorize electrical corporations to enter into long-term contracts for the electricity generated from these facilities on a cost-of-service basis.

(i) Contracts approved by the Public Utilities Commission and certificates approved by the Energy Commission for the replacement or repowering of older, less-efficient electric generating facilities should achieve improvements in environmental performance to the

maximum extent practicable, including reductions in air emissions and water use and discharge, compared to the replaced or repowered facility.”⁵

The California Energy Commission (CEC) also supports repowering as noted in many of their reports. It is clear that California policy makers have stated their position on repowerings and WCP urges the Commission to adopt this as a specific goal of the upcoming long-term procurement proceeding. WCP also supports examining the CEC’s 2005 Integrated Energy Policy Report procurement related recommendations in this phase of the proceeding.

Goal 3. Updates to IOU procurement policies and practices, including review and approval of new 10-year procurement plans;

WCP Comment - The importance of this goal is that new 10-year procurement plans will result in new generation for California which WCP has previously stated should be the primary goal of this proceeding.

Goal 4. Any procurement policy issues not handled in R.04-04-003 or other procurement related dockets.

WCP Comment - While WCP may offer additional comments after the Workshop, WCP supports many of the issues referred to in the Comments of the Western Power Trading Forum regarding other procurement issues not yet addressed.

IV. PROPOSED STRUCTURE OF THE PROCEEDING

The Commission’s Energy Division staff developed a proposed structure for the proceeding found in Appendix A of the ACR. The ACR ask for comments on the proposed activities and timeline for how to deal with the proposed Goals of the long-term procurement proceeding.

1. Review the Need for New Generation

a. Establishing Factual Need for New Generation – While it is clear to WCP that there is a need for new generation there are some parties who still doubt that conclusion. This review is critically important to determine which LSE’s are in compliance with the RAR order and should

⁵ Assembly Bill 1576 – (Nunez), Section 1, Pg 2.

make cost allocation discussions more productive. WCP agrees with the need to answer the questions posed in this section. WCP also agrees with the proposed workshop to be held in January with a Draft Decision on this topic to be issued in April 2006.

b. *Temporary and/or Permanent Mechanism (e.g., Cost Allocation and Benefit Sharing or Other Alternative)* – WCP supports the proposed activities stated in this section. The questions posed are appropriate for the Commission to answer after hearing from all parties. A workshop will prove beneficial on this topic. As stated above, this issue is the key to getting new generation built in California immediately and providing a venue for sustained capital flows into California and thus needs to be acted upon expeditiously.

2. *A Review of Long-Term Procurement Plans, Including an Integrated Resource Planning Process for All IOU Planning Areas* – WCP supports the proposed two-day workshop and the timeline stated in this section. The questions posed in this section are relevant to this discussion.

3. *Updates to IOU Procurement Policies and Practices, Including Review and Approval of New 10-year Procurement Plans* – WCP supports the proposed workshop and the timeline stated. WCP would add the following question to the list, “How are the IOU’s complying with AB 1576 and with previously stated Commission procurement policy regarding repowering?”

V. CONCLUSION

As WCP has previously stated at this Commission, at the CEC, and at the Legislature, California’s electric system is at a crossroads. California critically needs new power plants and a sustained flow of capital to support their construction. Wholesale electricity prices have been relatively stable over the last few years, but these stable prices may be driven by institutionalized price mitigation measures and are likely masking a dangerous and growing shortage in critically needed electricity supplies. Since the 2000–2001 energy crisis, very few new power plants have been built, due largely to energy market structural flaws and uncertainties that have the effect of discouraging needed new investment in new power plants. At the same

time, California's electric peak load continues to grow, older existing plants are becoming less efficient and others are shutting down for a lack of a long term market. A dangerous mismatch between electric demand and available supplies currently exists. The situation is severe — if not for the relatively mild weather in summer 2004, California may well have seen sustained electricity shortages and rotating blackouts.

Comprehensive procurement reforms are needed now to attract and sustain new power plant investment. Together with the continued development of demand attenuation programs and cost effective transmission additions and upgrades, new power plants are essential to ensure energy supply reliability and competitive energy prices for California's growing economy. California's electricity markets must also be redesigned to assure investors that, if they spend to build efficient and critically needed power plants, they can expect to earn an adequate return on their capital, without the uncertainties and risk of financial loss that plague the California energy market today. New procurement policies in California are necessary for the sake of all consumers.

Respectfully submitted this December 12, 2005 in San Francisco California.

Joseph M. Paul
Senior Corporate Counsel
Dynergy Power Marketing, Inc.
2420 Camino Ramon
Building J, Suite 215
Pleasanton, CA 94583
Telephone (925) 866-4909

By /s/ Joseph M. Paul
Joseph M. Paul
On Behalf of West Coast Power

CERTIFICATE OF SERVICE

I, Arthur M. Newmark, declare that on this 12th day of December 2005 that I caused a copy of the foregoing **WEST COAST POWER COMMENTS ON ASSIGNED COMMISSIONER'S RULING REGARDING NEXT STEPS IN PROCUREMENT PROCEEDING, R.04-04-003**, to be served on all known parties to **R.04-04-003** via e-mail to those listed with e-mail on the CPUC service website, and via U.S. Mail to those without e-mail service.

Hand Deliveries have been sent via messenger to the following:

Commissioner Michael R. Peevey
California Public Utilities Commission
State Building, Room 5218
505 Van Ness Avenue
San Francisco, California 94102

ALJ Carol A. Brown
California Public Utilities Commission
State Building, 505 Van Ness Avenue
San Francisco, California 94102

ALJ Meg Gottstein
California Public Utilities Commission
State Building, 505 Van Ness Avenue
San Francisco, California 94102

ALJ Mark Wetzell
California Public Utilities Commission
State Building, 505 Van Ness Avenue
San Francisco, California 94102

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

Executed this 12th day of December 2005 at San Francisco, California.

/s/ Arthur M. Newmark

Arthur M. Newmark