BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long-Term Procurement Plans.	R.06-02-013 (Filed February 16, 2003)

PRE-WORKSHOP PROPOSAL OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION

Steven Kelly, Policy Director
INDEPENDENT ENERGY PRODUCERS ASSOCIATION
1215 K Street, Suite 900
Sacramento, California 95814
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
E-mail: steven@iepa.com

GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: bcragg@gmssr.com

Attorneys for the Independent Energy Producers Association

Date: March 7, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long-Term Procurement Plans.	R.06-02-013 (Filed February 16, 2003)

PRE-WORKSHOP PROPOSAL OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION

Pursuant to the schedule established in the "Administrative Law Judge's Ruling Setting Prehearing Conference and Setting Workshop on Review of Policy Proposals to Support New Generation," issued on February 23, 2006, as modified at the prehearing conference on February 28, 2006, the Independent Energy Producers Association ("IEP") submits its pre-workshop proposal on new policies needed to support new generation.

I. INTRODUCTION

The order instituting this proceeding set as the first order of business a review of additional policies needed to support new generation and long-term contracts in California. Placing this emphasis on identifying what is needed to support new generation and long-term contracts is an implicit recognition that the state continues to have a problem attracting investment in new generation.

The questions posed in the ALJ's Ruling focus on how the costs of new generation and long-term contracts should be allocated among parties that may benefit from these resource additions, and reflect the perception that cost-allocation issues have impeded the building of new generation infrastructure (except for new facilities supported by the investor-

owned utilities ("IOUs") under a cost-of-service mechanism). Cost-allocation issues are important, but they are not the sole impediment to new generation investment in California. Certainly from the perspective of independent power producers ("IPPs"), a narrow focus on cost-allocation issues in this first phase of the Commission's long-term procurement proceeding will miss a critical opportunity (a) to send the proper signals to the investment community regarding new generation in California, and (b) to send the proper signals to ratepayers regarding the Commission's interest in placing construction and operation risk on plant operators and developers rather than on consumers.

Accordingly, IEP urges the Commission to focus this phase of the proceeding on answering the question:

- ***What additional policies are required to spur investment in generation that do not unnecessarily shift risks to ratepayers or increase the potential for stranded cost recovery underwritten by ratepayers?***

More specifically,

- ***What is it about the California energy market and procurement process that fails to produce long-term contracts with developers who are willing to shift considerable risk away from ratepayers?***

Independent power producers continue to offer significant benefits to ratepayers and California energy markets. They are willing to develop power plants without shifting the risks of planning, development, construction, and decommissioning to ratepayers. They bear the costs of unsuccessful proposed projects without seeking or expecting compensation from ratepayers. They bring a competitive outlook and innovation to an industry segment that was technologically complacent. They have commercialized renewable resource technologies. They

were the driving forces behind improvements that have lowered the heat rates of gas-fired power plants significantly, resulting in economic and environmental benefits.

Despite the benefits offered by IPPs, few IPP projects are actually being constructed today, apart from a limited set of units selected in the separate Renewable Portfolio Standard ("RPS") process.[1] If the problem were solely one of cost-allocation, then *no* projects would be moving forward, but cost-allocation issues have not deterred the planning, construction, and completion of utility-owned projects as evidenced by the fact that most utility-sponsored projects are moving forward expeditiously. Something is wrong with California's procurement policies or at least with the implementation of those policies when only one sector of the industry is able to advance its infrastructure investment plans.

IEP offers a series of recommendations to improve the climate for investment in new generation in California and to promote the long-term contracts that will support new generation in the current market structure. In summary, IEP recommends that the Commission should:

- Reaffirm that all-source solicitations are the preferred mode of procurement, and stop allowing exceptions to overcome the rule.
- Improve the Request for Offers ("RFO") and evaluation process to ensure that IPPs and IOUs are treated equally and fairly:
  - ➢ Add transparency to the resource planning process.
  - ➢ Ensure that the timing of RFOs and bid response dates does not unfairly favor utility or affiliate projects.
  - ➢ Ensure that the bid evaluation process does not explicitly or implicitly favor

[1] With the notable exception of some renewable projects, the only long-term contract awarded to a large IPP project since the utilities resumed procurement responsibility was SDG&E's 10-year contract for the output of Calpine's Otay Mesa power plant, and that arrangement may soon be converted into conventional utility ownership.

utility or affiliate projects.

   - Revisit and eliminate the role of debt equivalence in the procurement process.
   - Ensure that collateral and replacement power provisions in contracts are reasonable.
   - Equalize the credit requirements imposed on IPP and IOU projects.

- Exert the Commission's authority to improve market design:
   - Establish an efficient capacity market.
   - Develop tradable Renewable Energy Credits.
   - Link real-time and forward markets.
   - Enforce and verify compliance with RPS requirements.
- Take advantage of the private capital markets' willingness to finance new generation if the current obstacles are removed, and free up utility capital for investment in transmission and distribution upgrades and expansions.
- Reduce the rate of return on utility investments in generation to reflect the decreased risk of cost recovery after the enactment of Assembly Bill ("AB") 57.
- Review and tighten the affiliate transaction rules for procurement-related transactions.

These recommendations are explained in more detail in the remainder of this proposal.

II. BACKGROUND

The Commission's long-term procurement decision, Decision ("D.") 04-12-048, represents the latest major decision on procurement matters adopted by the Commission. That decision went into considerable detail about how future utility procurements of generating resources were to be conducted. In particular, the Commission determined the following:

- Utilities were to undertake procurement primarily or exclusively through

competitive all-source solicitations open to all resources, including conventional generation, renewable generation, turnkey proposals, buyouts of existing plants, and power purchase agreements ("PPAs").[2]

- IPPs, utilities, and utility affiliates were to compete directly in the solicitations. "PPAs and utility-owned resources need to participate in the same all-source open solicitations . . . ."[3] The idea that all-source solicitations were to be the primary vehicle for utility procurement was underscored by the statement that "[u]tility-owned resources *that are selected in a solicitation* will be eligible for Cost-of-Service ratemaking (future plant additions, annual O&M expenses, etc.)."[4]
- Even proposals for conventional utility-sponsored plants that required a Certificate of Public Convenience and Necessity ("CPCN") from the Commission were to be tested in an all-source solicitation. Utilities "will not be allowed to file a CPCN for a project unless it was selected in a solicitation."[5]

On the whole, D.04-12-018 provided positive signals to IPPs and to private equity markets that often assist in the financing of new generation infrastructure.[6] However, procurement activities after the issuance of D.04-12-048 have not met IPPs' initial expectations. To understand how IPPs' perception of the risks and benefits of investing in California could shift from the initial optimism resulting from D.04-12-048, the Commission must recognize that much of this perception derives not from the Commission's broad procurement policy decisions, but rather from the implementation of those policies. To begin to understand the origin of California's problems, the Commission should review the track record of procurement to date,

---

[2] D.04-12-048, pp. 126, 140-141, 237 (Ordering Paragraph 3).
[3] D.04-12-048, p. 139.
[4] D.04-12-048, p. 141 (emphasis added).
[5] D.04-12-048, p. 141.
[6] IEP filed a Motion for Clarification of D.04-12-048 on issues related to the role of the Independent Evaluator, the selection and bid evaluation criteria, and exclusions of existing generation. IEP also filed a Petition for Modification of D.04-12-048 presenting proposals for improving the fairness of all-source solicitations.

including the results of the all-source solicitations, the RPS solicitations, and the successful attempts to move projects to construction outside of the competitive procurement process.[7]

A. All-Source Solicitations

Southern California Edison Company ("SCE"). SCE conducted one all-source solicitation for long-term capacity resources in SP15. After receiving proposals in response to this solicitation, SCE withdrew the solicitation. Since the time SCE received competitors' bids and withdrew the solicitation, SCE affiliates have announced three new projects totaling 1,500 MW, all of which are located in SP 15. No new long-term solicitations have been announced.

Pacific Gas and Electric Company ("PG&E"). PG&E conducted a long-term all-source solicitation in 2005. To date, no results have been announced.

San Diego Gas & Electric Company ("SDG&E"). SDG&E conducted one all-source solicitation in 2003, before the Commission adopted D.04-12-048. This solicitation selected three generating projects. One winning project was the 500 MW Palomar Energy Center, which is being constructed by an SDG&E affiliate and will be turned over to SDG&E upon completion of construction. Once completed, Palomar will be a utility-owned plant, and the cost of purchase will be recorded in SDG&E's rate base. A second project, built by a third-party firm, is a 50 MW peaking unit, which will also be owned by SDG&E upon completion of construction. A third winning project was a 10-year power purchase agreement for the output from the 585 MW Otay Mesa Power Plant owned by Calpine. Recent press reports indicate that this project may be transferred to SDG&E to complete construction, own, and operate the facility as a rate-based asset.

[7] For purposes of this analysis and consistent with the scope of this proceeding, IEP is focusing on long-term, rather than short-term, procurement practices.

B. RPS Solicitations

California's RPS solicitations employ the Least-Cost/Best-Fit ("LCBF") evaluation methodology prescribed in Senate Bill ("SB") 1078 that integrates grid interconnection costs into the determination of winners and losers.

SCE. SCE conducted a pre-RPS renewable procurement in 2003 and an additional RPS procurement in 2005. The 2003 procurement resulted in eight signed contracts. On December 7, 2005, SCE announced that six of the eight contracts were with projects that either did not have final locations or had not begun the studies necessary to determine the cost of interconnecting to the grid.[8] In the same filing, SCE indicated a low probability of meeting its 2010 RPS compliance goals.

PG&E. In its December 7, 2005 "Supplement to Pacific Gas and Electric Company's 2005 Renewable Energy Procurement Plan," PG&E announced that "it is unlikely that [PG&E] will achieve <u>actual deliveries</u> of 20 percent of its bundled retail sales by 2010" (emphasis in original). Furthermore, PG&E states "it is unlikely that a sufficient quantity of such new projects [*i.e,.* projects with contracts entered into in prior solicitations] will be on-line and delivering energy as of January 1, 2010 so that 20 percent of all retail electricity sales in 2010 are supplied by RPS eligible resources."

SDG&E. SDG&E has conducted a series of RPS RFOs. In its December 7, 2005 "Supplement to the Long-Term Procurement Plan," SDG&E focuses primarily on transmission and contingency planning. It does not speak directly to the probability of compliance with the 2010 RPS objectives. SDG&E's March 1, 2006 compliance filing indicates that SDG&E is

---

[8] Southern California Edison Company's Supplement to its Renewable Procurement Plan 2005-2014, pp. 2-3, filed in R.04-04-026 on December 7, 2005.

meeting its annual procurement target for 2005. However, in neither report does SDG&E clearly address the extent to which new generation (a) is contracted for (*i.e.,* the quantity of MWs under contract), (b) can become operational by 2010 or 2017, and (c) is deliverable without construction of significant transmission upgrades and expansions.

C. Recent Utility Acquisitions Discourage Independent Investment in New Generation

While some competitive RPS solicitations have been implemented since passage of SB 1078, the bulk of the new resources that are being *constructed* today (or that are moving expeditiously toward approval to begin construction) in California have been (or are being) approved outside of the competitive procurement framework. Even projects that were selected in a competitive solicitation are or soon will be utility-owned plants:

- The Mountainview Power Project: D.03-12-059 authorized SCE to acquire Mountainview Power Company, LLC as a wholly owned subsidiary from Sequoia Generating Company and to enter into a "cost-based contract providing for recovery of investment, fixed and variable costs, and a regulated rate of return, over the 30-year life of the contract."[9]
- Contra Costa 8 ("CC8"): In Application ("A.") 05-06-029, PG&E seeks the Commission's authorization to acquire the CC8 generation facility from Mirant Corporation as part of a settlement of claims related to the Mirant bankruptcy. PG&E also seeks a Certificate of Public Convenience and Necessity, consistent with its intent to own and operate CC8 as a utility-owned plant subject to conventional ratemaking treatment. The cost of constructing this 530 MW facility would be recorded in PG&E's rate base.
- Otay Mesa Power Plant: In D.04-04-011, the Commission authorized SDG&E to enter into a 10-year power purchase agreement with Calpine Corporation to purchase the output of the Otay Mesa plant. On rehearing, this

[9] D.03-12-059, p. 5.

authority was affirmed in D.06-02-031. Calpine is now in bankruptcy, and it appears that SDG&E will take a larger role in completing construction and possibly ownership of the plant.[10] The Otay Mesa Power Plant is a 585 MW facility.

- Diablo Canyon Power Plant and San Onofre Nuclear Generating Station: In D.05-11-026 and D.05-12-040, the Commission authorized PG&E and SCE, respectively, to undertake steam generation replacement programs to correct for degradation of steam generators and to extend the useful lives of these utility-owned nuclear power plants to the end of their existing licenses.
- Palomar Energy Center: SDG&E will puchase this 500 MW plant from its affiliate Sempra Energy Resources, under a turnkey arrangement, as authorized in D.04-06-011. D.05-08-005 approved the cost recovery and ratemaking mechanisms for Palomar, including recovery of the cost and expenses that SDG&E incurred before actually acquiring the facility.

Thus, the major power investments in new generation assets that have received long-term commitments from utilities in recent years are either partly constructed plants purchased from financially troubled IPPs, turnkey projects purchased from utility affiliates, or life-extension projects for existing utility-owned nuclear power plants. This pattern is not a formula for attracting sustained IPP investment in California, as the order appears to recognize. Equally significant is the fact that all of these plants will receive conventional cost recovery or a contract-based simulation of conventional cost recovery. Ratepayers will bear nearly all the costs (and, hence, the risks) associated with constructing or purchasing, operating, maintaining, and retiring these plants. These investments total approximately $3 billion, which will be unavailable to finance improvements to the transmission and distribution system and much of

---

[10] At the Commission meeting of February 16, 2006, President Peevey stated that construction of the Otay Mesa plant would be completed "under the auspices of SDG&E."

which will be added to the utility's rate base.

III. CURRENT PRACTICES SEND DISCOURAGING SIGNALS TO INVESTORS

Together, the state's electric market design and procurement practices have created an environment that fails to attract and sustain investment in new generation and have created a series of incentives for utilities that conflict with the actions needed to support new generation. The utilities' nearly complete failure, with one disappearing exception, to enter into long-term contracts that could support new generation constructed by IPPs has not gone unnoticed by independent generation developers and the financial community. The revelation that some of the winners selected in ostensibly competitive RPS solicitations did not have locations or had not even taken the initial step of requesting interconnection studies suggests the unsettling possibility that contracts are being awarded to projects that have little probability of actually being constructed in a timely manner. The state's inability to design and implement a stable, efficient, functioning market also deters investment in California.

IEP recognizes that certain aspects of market design are not within the control of the Commission. However, the Commission has authority over the procurement practices of its jurisdictional utilities. Accordingly, while recognizing the vital importance of attaining a proper market design within California, IEP will focus the remainder of its comments on policies that are within the Commission's authority to amend, remove, or implement and that will enhance the prospect of attracting investment in new generation in California, when and where it is needed, to the long-term benefit of ratepayers and consumers in California. Specifically, the Commission must revise and implement its policies so that the incentives faced by participants in California energy markets are aligned with the Commission's goals.

A. <u>Existing Incentives Undermine the Commission's Commitment to Open, Transparent, Competitive Procurements By Favoring Utilities and Affiliates</u>

Existing incentives favor financial commitments by the IOUs to utility-owned or utility-affiliated projects. As a result, these are the projects that advance to the Commission for approval. The utilities have little financial incentive to promote the open, transparent, competitive solicitations the Commission selected as the primary vehicle for procurement in D.04-12-028. Thus, existing regulatory incentives undermine the Commission's preferred vehicle for procurement, the all-source solicitation. Examples of these incentives are as follows:

- The earnings of regulated utilities are derived from the rate of return applied to the rate base. Generating plants that are added to rate base help boost the utility's earnings. The larger the rate base, the greater the earnings.
- Utilities' payments under contracts with independent power producers are passed through directly to ratepayers, and the utility earns *nothing* on these contracts.
- Contracts with utility affiliates produce earnings for the parent of both the utility and the affiliate/seller.
- The current tools to protect against abusive self-dealing or affiliate transactions, including the Independent Evaluator ("IE") and Procurement Review Groups ("PRGs"), are inadequate. The IE is paid by the utility,[11] which immediately raises the question of the IE's true independence. Similarly, at least one utility's PRG includes representatives of the Coalition of Utility Employees,[12] who may have their own reasons for supporting utility-sponsored projects.
- The California Independent System Operator ("CAISO") has taken on the role of ensuring that shortages of supply are avoided, at least in the short term.

---

[11] D.04-12-048, p. 136.

[12] R.05-06-040, Tr. p. 341.

The costs of the CAISO's procurement are spread to all transmission customers. An individual utility has less incentive to take action on its own to guarantee against a supply shortage on behalf of its ratepayers if another entity performs that function and spreads the costs more broadly.

- The timing of procurements is at the sole discretion of the IOUs. This discretion raises the possibility that utilities might time procurements to fit the development schedules of utility- or affiliate-sponsored projects. SCE's long-term procurement for SP 15 resources, for example, required indicative offers to be submitted within 41 days of the issuance of the RFO, and projects had to come on line between 2006 and 2008. That particular solicitation was cancelled, but the timing and deadlines might have aroused suspicions if a utility- or affiliate-sponsored project had emerged among the winners. The lack, so far, of regularly conducted procurements can also lead to a reliance on "unique, fleeting opportunities," which are becoming a standard feature of IOU procurement in California.

In combination, these incentives explain a great deal about why the Commission's procurement policies have failed to attract the desired level of investment in California. The utilities have the financial incentive, ability, and latitude under the Commission's decisions to implement the procurement process to further their own objectives, at the expense of their competitors and to the detriment of ratepayers. To fix the problem, the incentives must be aligned with the desired solution.

B. Existing Policies For Open, Transparent, Competitive Procurements Are Not Supported in Practice

The Commission in D.04-12-048 announced that all-source solicitations, where utility-sponsored projects would have to compete directly with IPP proposals, would be the preferred mode of procurement. Bilateral contracts were "discouraged," but permitted on a case-

by-case basis.[13] In practice, the exception for bilateral contracts has overwhelmed the rule that all-source solicitation would be preferred.

In spite of the consensus that California needs new generation, the results of all-source solicitations for the long-term contracts that might stimulate investment in new generation have been mixed. As noted above, SCE's long-term RFO was withdrawn; the results of PG&E's long-term solicitation have not yet been announced; and the results of SDG&E's solicitation (which preceded D.04-12-048), at least with respect to new IPP development, were controversial, resulting in a second round of Commission review and approval. Meanwhile, SCE's affiliate proposes to construct 1500 MW of new projects located in SCE's service territory;[14] PG&E has asked for approval of what it characterizes as a bilateral agreement to purchase the CC8 plant from Mirant; and it appears that SDG&E may purchase Otay Mesa from Calpine. Thus, the emerging pattern is that rather than acquiring new resources through all-source solicitations, as the Commission directed in D.04-12-048, utilities will acquire ownership or equivalent interests in new resources through bilateral agreements or through the Commission's approval of "unique, fleeting opportunities."

In the context of RPS solicitations, the methodology for determining winners and losers in the RPS procurements, as prescribed by law, is the LCBF methodology designed to specifically incorporate transmission factors and locational attributes. Yet the results publicly released to date reveal that a surprisingly high number of contracts (and, presumably, MWs associated with those contracts, although this information has not been made public) will require significant transmission upgrades that apparently were not considered in the selection of winning

---

[13] D.04-12-048, p. 141.

[14] IEP's members are happy to compete against utility affiliate projects in all-source solicitations if the solicitation and evaluation process is open, transparent, competitive, and fair.

projects. This experience raises fundamental questions about the implementation of the Commission's RPS procurement practices:

- How can a utility conduct an evaluation of bids using the LCBF methodology, which specifically requires the assessment of the costs of integrating the generation unit into the transmission grid, when 75% of the "winners" fail to provide the information needed to properly determine integration costs? What are the standards for evaluation that permit this result?

Equally troublesome, in light of the utility admissions that attainment of the 2010 RPS goal are problematic at best, are the unknown answers to the following questions:

- What happened to projects that were not selected as "winners" but that had incurred the costs to provide the information needed for a proper evaluation of integration costs (and included the recovery of those costs in their bids)? If integration costs were properly considered for all bidders, would they have been among the winners? Could these projects be operating and delivering renewable power by 2010 to help meet the RPS goals?

At a minimum, this experience demonstrates the need for more transparency in the RPS program, so that policymakers, consumers, and market participants are aware of the extent of real progress toward meeting RPS goals.

C. Regulatory and Market Design Uncertainty Inhibit Investment in New Generation

The Commission's jurisdiction over wholesale market design is limited, but the Commission nevertheless has an important voice on market design issues. Clearly, the current market design has not produced adequate investment in generation in a timely manner. From a policy perspective, and to provide greater certainty to generation investors, it is crucial to take the following steps as soon as possible:

- Establish stable policies that ensure the commencement at a date certain of an efficient, functioning capacity market for the procurement of short, medium, and

long-term capacity.

- Establish stable policies that ensure an efficient, functioning market for tradable renewable energy credits as a complement to installed generation needed for RPS compliance.
- Establish stable policies that result in clear synergies and linkages between real-time and forward markets, including the day-ahead market.
- Establish stable policies that ensure that resources to meet RPS requirements are measurable and verifiable.

A better, more efficient market design will support a more effective procurement process and eliminate or lessen many of the problems of the current procurement implementation.

IV. POTENTIAL SOLUTIONS TO IMPROVE INCENTIVES

To begin the process of attracting investment in new generation in California, the Commission can and should take some immediate steps.

A. Commission Policies Should Be Targeted To Better Allocate Scarce Capital for Needed Investment in Infrastructure, Including T&D

By definition, investment capital is limited. Presently, California, with its large and growing economy, potentially has access to tremendous amounts of investment capital, but current policies are undermining the state's ability to tap the full range of sources of potential capital. The Commission's present policies fail to take advantage of the available capital "pools" presented by the IPP sector and the IOU sector. If these two capital pools can be aligned to complement, rather than compete with, each other, California has a much better prospect of attracting investment capital to meet the state's generation, transmission, and distribution infrastructure needs.

Presently, however, these two capital pools compete and conflict, particularly in

the area of new generation infrastructure. Currently, IOUs are investing considerable capital in the generation sector, an area where IPPs and private capital markets stand ready to invest if deterrents are removed. however, utilities also face significant demands for capital investment required to maintain and upgrade the transmission and distribution systems (T&D"). Unlike generation, T&D represent natural monopolies where there are not willing independent investors who are eager to shift risks away from ratepayers. When IOU capital is expended on generation, that capital is not available to invest in T&D. By removing the obstacles to IPP investment in generation, the Commission could free up capital needed to improve the state's T&D systems and benefit ratepayers by reducing the risk associated with generation that would otherwise fall on them.

Thus, the diversion of utility capital from T&D to an area (generation) that could otherwise attract IPP investment:

- creates inadequate investment in T&D,
- unnecessarily discourages and displaces IPP generation investment,
- creates the incentives for IPP capital to be invested elsewhere (*e.g.,* Texas, Colorado), and
- shifts generation risks onto ratepayers and away from private capital markets.

Not to take advantage of the willingness of private capital markets to help finance the construction of new generation, from society's perspective, is not terribly efficient, particularly when congestion on the transmission system can greatly increase the costs of delivering power and undermine the reliability of the entire grid.

B. Commission Policies Toward Affiliate Transactions Must Be Effective

In 2002, the Commission conducted a detailed consideration of the issues of utility transactions with affiliates. This investigation culminated in D.02-10-062, which imposed

a moratorium on procurement transactions with affiliates, beginning on January 1, 2003. The Commission also adopted minimum standards of behavior, including Standard 1:

> Each utility must conduct all procurement through a competitive process with only arms-length transactions. Transactions involving any self-dealing to the benefit of the utility or an affiliate, directly or indirectly, including transactions involving an unaffiliated third party, are prohibited.

In D.04-01-050, the Commission's initial decision on long-term procurement, the Commission again addressed the problems related to affiliate procurement transactions, and concluded:

> We do not have the same level of oversight and authority over affiliate transactions that we do over direct utility operations. We recognize that cross-subsidies and anti-competitive conduct has occurred in the past in affiliate procurement transactions and that it could occur in the future under the market structure we adopt here. The most direct and effective means to avoid any potential conflict of interest is to simply prohibit the transactions. However, we will grandfather already existing contractual relationships with affiliates (e.g., QF contracts) for the life of the existing plant in order to ensure that existing resources with such relationships can continue to serve California. The holding companies and affiliates of each utility should plan for future generation investment to be made outside of the utility's service territory and sold to other load serving entities.[15]

In D.04-12-048, however, the Commission revisited the affiliate transaction issue and reached a different conclusion:

> Given our desire to consider all competitive options, instead of continuing the ban, and carving out exceptions for unique resources from time to time, we now find that it is in the best interest of the ratepayers and consumers to allow for a full vetting of all available resources in a RFP. We will institute appropriate safeguards for the solicitations for long-term transactions, in part through continuation of utility PRGs and through the use of IEs. Such safeguards can protect consumers from any anti-competitive conduct between utilities and their affiliates. Therefore, by this

[15] D.04-01-050, p. 71 (footnote omitted).

> decision we lift the ban on long-term affiliate transactions for transactions entered into through an open and transparent solicitation process. However, we maintain the ban on short-term transactions because the short-term market moves too fast and there is too great of a potential for abusive self-dealing, with little or no possibility for Commission oversight of these types of transactions.[16]

IEP has previously noted how recent procurement decisions by the IOUs have taken place outside of the all-source solicitation framework that was intended to provide the openness, transparency, and competition that the Commission desired, and how nearly all of the utilities' long-term commitments are to projects that are IOU-owned, IOU-turnkey, or IOU-affiliate projects. As a result ratepayers are required to assume considerable risks associated with projects that receive a nearly guaranteed return on investment and recovery of variable costs for lengthy periods (30 years or the life of the plant).

In light of these developments, it is time for the Commission to revisit its rules regarding procurement-related affiliate transactions. The Commission's primary tools for protecting against affiliate abuse—the IE and PRG—have not yet been shown to be effective. As noted above, there are reasons to suspect that the IE and PRG may not work as intended when affiliate transactions are involved. At this point, it is unclear whether these protections will be adequate to root out and expose the potential for affiliate abuse.

What is perfectly clear at this point, however, is that the Commission must ensure that no favoritism occurs in the procurement process when affiliates are involved. If utility projects or affiliate proposals are allowed to compete with IPPs in solicitations where the utility retains the primary power to select winners, it must be beyond dispute and transparent to all

---

[16] D.04-12-048, pp. 128-129.

participating parties that the winning projects are selected on a fair and unbiased basis.[17]

C. RFOs Must Be Open and Transparent, and Competition Must Be Fair

To achieve the open, transparent, competitive procurements called for in D.04-12-048, the Commission must ensure that individual utility RFOs are conducted in a manner that attracts the participation of many bidders. If IPPs have reason to believe that they face an "un-level" playing field, IPP investors will focus their development teams in other areas of the country, and IPP investment in new generation in California will be thwarted.

To counter this effect, the Commission's policies must ensure the following:

- **Resource planning must be transparent.**[18] Development of new generation requires foresight and planning. Site control and preparation, interconnection studies, equipment purchases, preliminary engineering, etc., are critical to building and operating a new facility in a timely and cost-effective manner. These critical pre-construction steps are vital, and much of the work can be accomplished in advance of actual RFOs, **if** developers have some sense of the future, long-term needs of the load-serving entities. Such advance knowledge should not be restricted to utility planning or project development departments.
- **RFOs must provide sufficient time for bidders to develop feasible responses.** RFOs frequently give bidders only a short time (30-90 days) to respond. Particularly in an environment in which market participants have little access to utility long-term planning information, RFOs with limited response times minimize participation in the RFO and will tend to favor utility-sponsored

---

[17] IEP notes that the Commission may soon be forced to confront this issue squarely, because Edison Mission Energy, an affiliate of SCE, filed Applications for Certification with the California Energy Commission for two 500 MW projects late last year (Walnut Creek and Sun Valley), and Edison Mission Group recently announced that it intends to develop another proposed 500 MW project in partnership with BP. All of these plants are within or near SCE's service territory and may be expected to participate in future SCE solicitations.

[18] IEP recognizes that the Commission's rulemaking on confidentiality (R.05-06-040) is related to the transparency of planning. A draft decision in the confidentiality proceeding is expected at the end of this month.

projects.

- **The bid evaluation process must be fair for all bidders.** To date, IOUs have shown a greater willingness to enter into long-term commitments for utility- or affiliate-sponsored projects than with IPP competitors. For example, in the SDG&E RFO, the SDG&E turnkey facility (Palomar) received a life-of-the-plant commitment while the IPP facility (Otay Mesa) received a 10-year contract. The length of the commitment term affects many of the other components of a proposal. For example, if recovery of the capital costs of a plant can be spread over 30 years, the bid for that plant will be lower than for an identical plant that must recover the bulk of its capital costs over ten years. The difference in commitments or contract terms must be accounted for in the evaluation process to permit a fair comparison of different projects.
- **Procurement solicitations should be developed in collaboration with prospective bidders.** Many of the problems that have arisen in utility RFOs likely could have been averted if the potential bidders had been consulted beforehand. Well-designed solicitations will attract more bidders, and the increased competition will benefit ratepayers.
- **Rates of return for generation investment should be reduced**. Under AB 57, which added section 454.5 to the Public Utilities Code, utilities receive assured recovery of the costs of purchases that are the result of competitive procurement processes or that meet Commission-specified standards and criteria. If IOU-owned and IOU-turnkey projects are allowed to participate in procurement within the IOU's service territory, and those projects are assured an essentially risk-free return of and return on investment, then the utility's rate of return should be reduced accordingly. For IOU projects freed from the risk of recovery of investment costs, the ratepayers should see some concomitant benefits.
- **Penalties for non-compliance with the RPS program should be enforced.** The RPS program is a potentially effective driver for new generation infrastructure in California. The experience with the RPS to date is not encouraging, however, as the three large IOUs express doubt about their abilities

to meet 2010 RPS goals, and projects are selected through a bid evaluation process that apparently overlooks the costs of interconnection and transmission upgrades. Unless they face real financial penalties, however, entities subject to the RPS requirements will have no compelling need (or desire) to achieve compliance in a timely manner. The Commission must follow through on its determination to impose penalties for non-compliance with the RPS requirements.

- **Costs associated with debt equivalence should be treated as a cost of capital matter, rather than a procurement matter.** The Commission has recognized that certain credit rating firms employ a debt equivalence factor to evaluate the effect of contracts on the utility's financial structure. Compensating for this debt equivalence is a proper function of the Commission's cost of capital review. Debt equivalence should not, however, be employed in the procurement process to give an automatic advantage to utility-sponsored projects over long-term contracts with independent power producers. The Commission's decision in D.04-12-048 to consider debt equivalence in the procurement process has resulted in a process that has a built-in bias toward utility-owned projects with no corresponding recognition of the risks ratepayers assume with utility-owned projects. The Commission indicated in D.04-12-048 that it would reconsider the debt equivalence issue as it gained experience.[19] The experience to date, as described throughout this proposal, has not stimulated new generation and long-term contracts with entities other than utilities and utility affiliates. It is time for the Commission to reconsider its treatment of debt equivalence.

- **Replacement Power and Collateral Requirements Must Be Reasonable.** The current replacement power collateral requirements demanded by utilities are a significant barrier to the development of new generation and long-term contracts. The replacement power provisions have greatly increased in recent years, and the use of "mark to market" pricing means that less expensive projects have the greatest replacement power requirements. These disproportionate collateral requirements can only be meet at a high cost to the IPP developer, and these high

[19] D.04-12-048, p. 145.

costs will ultimately be reflected in prices to consumers.

- **Credit and Collateral Requirements Must Be Comparable**. If collateral to cover the cost of replacement power for the life of the contract is a requirement imposed on IPP developers, then the same requirement should be imposed on IOU development interests as well (rather than imposing it on ratepayers as, is currently done under the cost-of-service model to support IOUs' investment in new generation).[20]

As the preceding discussion has demonstrated, the current set of incentives has not and will not create an environment that will result in new generation in California. If the Commission wants utilities to develop balanced portfolios with a mix of contracts terms, technologies, and cost-recovery mechanisms in a timely and cost-effective manner, it must alter the incentives to which utilities respond. Otherwise, the status quo, as characterized by inadequate generation and T&D infrastructure investment, will persist.

V. CORRECT INCENTIVES LEAD TO CORRECT COST ALLOCATION

As noted above, cost-allocation issues are important, but they are not the sole impediment to new generation investment in California. Certainly from the perspective of IPPs, a narrow focus on cost-allocation issues in this first phase of the Commission's long-term procurement proceeding will miss a critical opportunity (a) to send the proper signals to the investment community regarding new generation in California, and (b) to send the proper signals

[20] In a recent RPS RFO conducted by SCE, credit collateral was limited to $50/MWh. In addition, SCE in its 2005 RFP requested a large credit facility to guarantee replacement power payments. IEP estimates that a 20 MW geothermal plant producing 170,000,000 kWh/yr has an $8.5 million annual liability if it completely fails to operate. Without some limitation, over a 20-year PPA term, providing collateral to cover the cost of replacement power could amount to a $170M liability – almost three times the capital cost of the project. Tying up capital for this length of time and to this extent increases the cost of constructing a new generation plant for IPPs, but not for IOUs under current ratemaking practices. This type of credit requirement not only is an impediment to construction to new generation, it also clearly skews competition between IOUs and IPPs in favor of the IOUs.

to ratepayers regarding the Commission's interest in shifting construction and operation risk to plant operators and developers rather than consumers.

Issues of cost allocation arise when the utilities incur costs for products that are no longer needed to serve ratepayers. The example that is more often cited arises if the utility enters into a long-term contract to serve bundled ratepayers, but some of those customers later depart bundled service for direct access or community choice aggregation, leaving the remaining utility ratepayers to absorb the costs of capacity that is no longer needed to serve bundled customers. Similarly, if IOUs procure reliability services (*e.g.,* capacity or ancillary necessary to support local grid reliability) on behalf of other beneficiaries, then the costs to secure these services should be properly allocated to the beneficiaries. IEP repeats, however, that these services have historically been procured by the IOUs and continue to be procured today (in the form of IOU-owned new generation projects), and the question of cost-allocation has not been raised in these instances.

A related set of cost allocation issues arise for stranded costs—costs that are above the level that are supported by market price signals. Clear cost-allocation procedures are necessary, because if the investment that is required of the utilities is priced at a level higher than the market price signals support, and the utilities will seek regulatory assurance that the investment—which by market standards is already stranded—can be recovered.

Once the market is designed correctly and the correct procurement incentives are in place and correctly implemented, much of the concern about stranded cost and cost allocation will disappear. For example, if the utilities' portfolios contain a mix of contract terms for products and services that are hedged through wholesale market transactions, the utilities will be better able to adjust to changes in load. In addition, if a market for tradable capacity products

exists, excess capacity can be sold in the market (or additional capacity can be purchased). This ability to fine tune capacity purchases to fit needs will greatly reduce the potential for stranded costs.

Similarly, if the procurement incentives encourage procurement of renewable generation and a system of tradable renewable energy credits ("RECs") exits, utilities with ample renewable resources can efficiently help meet the RPS requirements for other utilities. Tradable RECs will also facilitate the participation of renewable projects in all-source solicitations, as renewable developers can offer the output from their facilities in direct competition with other generation technologies, and recover the value of their renewable attributes through the sale of tradable RECs. Tradable RECs can also avoid unnecessary transmission upgrades that are not required to meet local load, but only to allow the delivery of renewable power from one area to another.

VI. SUMMARY OF RECOMMENDED POLICIES AND ACTIONS

IEP has gone on at some length to explain why existing procurement policies and practices have not resulted in new investment in generation and long-term contracts that might support new generation. IEP's recommendations can be summarized as follows:

- Reaffirm that all-source solicitations are the preferred mode of procurement, and stop allowing exceptions to overcome the rule.
- Improve the RFO and evaluation process to ensure that IPPs and IOUs are treated equally and fairly:
  - Add transparency to the resource planning process.
  - Ensure that the timing of RFOs and bid response dates does not unfairly favor utility or affiliate projects.
  - Ensure that the bid evaluation process does not explicitly or implicitly favor utility or affiliate projects.

    - Revisit and eliminate the role of debt equivalence in the procurement process.
    - Ensure that collateral and replacement power provisions in contracts are reasonable.
    - Equalize the credit requirements imposed on IPP and IOU projects.
- Exert the Commission's authority to improve market design:
    - Establish an efficient capacity market.
    - Develop tradable RECs.
    - Link real-time and forward markets.
    - Enforce and verify compliance with RPS requirements.
- Take advantage of the private capital markets' willingness to finance new generation if the current obstacles are removed, and free up utility capital for investment in transmission and distribution upgrades and expansions.
- Reduce the rate of return on utility investments in generation to reflect the decreased risk of cost recovery after the enactment of AB 57.
- Review and tighten the affiliate transaction rules for procurement-related transactions.

VII. RESPONSE TO THE QUESTIONS POSED IN THE RULING

The Ruling posed a series of questions and asked parties to respond to the questions as part of their proposals. IEP offers its response in the following paragraphs.

(1) Is there a need for the State to adopt additional policies to support the development of new generation and long-term contracts in California? If so, describe a policy proposal that serves that goal, such as the consideration of a transitional and/or permanent cost allocation or alternative mechanisms that would serve the same goal. Proposals should include detailed information about how costs and benefits of new generation contracts will be allocated and shared, how the policy will be implemented, over what timeframe, and with what safeguards.

IEP's response to this question has been presented in detail in the earlier sections of this document.

(2) Is there a need for the Commission to act on the proposal urgently? What are the relevant timelines that will be affected by the Commission's action on this proposal? Are there new generation projects or solicitations that will be delayed if this proposal is not acted upon?

The urgency of taking action to improve California's energy situation increases with every passing day, as load continues to grow, aging power plants move closer to retirement, and new generation fails to materialize. Not all of IEP's recommendations can be implemented immediately, but beginning to act on these policies immediately will signal investors and developers that California is serious about improving the investment climate in the state.

(3) Why is the existing regulatory authority insufficient to ensure that contracting for new generation occurs?

As discussed above, the current incentives do not encourage utilities to contract for new generation with independent power producers. Under existing incentives, utilities are better off if they avoid contracting with IPPs and wait for plants that have been initiated without contracts to be offered for sale at discounted prices. Moreover, adding generation assets to the utility's rate base produces earnings; contracting with IPPs does not.

(4) How will ratepayers be affected by adoption or rejection of the policies proposed?

Ratepayers will benefit in several ways. First, new investment in generation will be stimulated. Second, ratepayers will benefit from improved reliability and continuity of service. Third, competition among all varieties of generators will be encouraged, which will benefit ratepayers by setting prices for power at competitive levels and spurring innovation and greater efficiency. Fourth, contracts resulting from an open, competitive, and transparent solicitation should shift generation risk from ratepayers to private capital markets.

(5) How much new generation would the new policies apply to? If the policies apply to all contracts for new generation, on what date would application begin, and until what date/event would it continue?

The recommended new policies would take effect as soon as they are adopted by the Commission and would continue until modified or superseded by later Commission action.

However, regulatory instability is one of the reasons for the lack of investment in the state's energy infrastructure, and the Commission should strive for stability in regulatory policies.

(6) How does the proposal apply to the need determinations made by the Commission for Pacific Gas and Electric Company and Southern California Edison Company in Ordering Paragraphs (OP) 4 and 5 in D.04-12-048? Does the proposal apply only to the amount of new generation authorized in D.04-12-048? Does the proposal apply to a larger amount of new generation? If so, how much and how is that larger amount determined?

As noted earlier in this proposal, the policy of relying on all-source solicitations as the primary vehicle for procurement is a good one, but the Commission has permitted exceptions to overcome the rule. The authorizations in Ordering Paragraphs 4 and 5 of D.04-12-048 need not change (at least until review of the new long-term procurement plans is completed in this proceeding), but the Commission needs to reinforce its intention to promote open, transparent, and competitive solicitations. IEP's recommended policies can and should apply to all solicitations after the date the Commission adopts the policies.

(7) How will the proposal affect the Commission's ability to consider capacity markets in a R.05-12-013? Are there steps the Commission can take to ensure that new policies do not foreclose the possibility of capacity markets?

IEP encourages the Commission to assist in the creation of a tradable capacity product as soon as possible. Defining a tradable product may allow some capacity transactions to go forward. Development of a more complete market for capacity should continue to be pursued expeditiously in R.05-12-013.

VIII. CONCLUSION

Despite the Commission's call in D.04-12-048 for procurement to proceed through open, transparent, and competitive all-source solicitations, actual utility procurement has responded to the economic incentives inherent in the Commission's ratemaking practices. To avoid a revival of the utilities' former monopoly on generation and the re-imposition of

significant risks associated with utility-owned generation on ratepayers, the Commission must make a number of policy decisions for immediate implementation. Retaining the status quo for procurement will produce the same results—little new independent investment in California generation, few long-term contracts that might support new generation, and a continuation of the supply-related problems that have dogged California for several years. IEP respectfully suggests that it is time for the Commission to align its regulatory incentives to meet its goals, and IEP urges the Commission to carefully consider its recommendations as it examines how to stimulate new generation and long-term contracts.

Respectfully submitted this March 7, 2006 at San Francisco, California.

INDEPENDENT ENERGY
PRODUCERS ASSOCIATION
Steven Kelly, Policy Director
1215 K Street, Suite 900
Sacramento, California 95814
Telephone: (916) 448-9499
Facsimile: (916) 448-0182

GOODIN, MACBRIDE, SQUERI,
RITCHIE & DAY, LLP
Brian T. Cragg
505 Sansome Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321

By *<u>/s/ Brian T. Cragg</u>*
Brian T. Cragg

Attorneys for the Independent Energy
Producers Association

2970/005/X75702.v2

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. BACKGROUND 4

A. All-Source Solicitations 6

B. RPS Solicitations 7

C. Recent Utility Acquisitions Discourage Independent Investment in New Generation 8

III. CURRENT PRACTICES SEND DISCOURAGING SIGNALS TO INVESTORS 10

A. Existing Incentives Undermine the Commission's Commitment to Open, Transparent, Competitive Procurements By Favoring Utilities and Affiliates 11

B. Existing Policies For Open, Transparent, Competitive Procurements Are Not Supported in Practice 12

C. Regulatory and Market Design Uncertainty Inhibit Investment in New Generation 14

IV. POTENTIAL SOLUTIONS TO IMPROVE INCENTIVES 15

A. Commission Policies Should Be Targeted To Better Allocate Scarce Capital for Needed Investment in Infrastructure, Including T&D 15

B. Commission Policies Toward Affiliate Transactions Must Be Effective 16

C. RFOs Must Be Open and Transparent, and Competition Must Be Fair 19

V. CORRECT INCENTIVES LEAD TO CORRECT COST ALLOCATION 22

VI. SUMMARY OF RECOMMENDED POLICIES AND ACTIONS 24

VII. RESPONSE TO THE QUESTIONS POSED IN THE RULING 25

VIII. CONCLUSION 27

WARNING: This section retains the original formatting, including headers and footers, of the main document. If you delete the section break above this message (which is visible ONLY in Normal View), any special formatting, including headers and footers for the Table of Contents/Authorities section will be lost.

If you delete the section break above the Table of Contents/Authorities, you will overwrite the headers and footers of the main document with Table of Contents/Authorities headers and footers.

To delete the Table of Contents/Authorities, begin your selection at the section break above the TOC/TOA section and continue through the end of this message.

CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 7th day of March 2006 caused a copy of the foregoing

PRE-WORKSHOP PROPOSAL OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION

to be served on all known parties to R.06-02-013 via email to those listed with email on the most recent service list on the CPUC website, and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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

ALJ Carol A. Brown
California Public Utilities Commission
505 Van Ness Avenue, Room 5103
San Francisco, CA 94102

I declare on penalty of perjury under California law that the foregoing is true.

Executed this 7th day of March 2006 at San Francisco, California.

*/s/ Melinda LaJaunie*__
Melinda LaJaunie

2970/005/X75758.v1

SERVICE LIST – R.06-02-013
(Updated March 3, 2006)

KEITH R. MCCREA
SUTHERLAND, ASBILL & BRENNAN, LLP
keith.mccrea@sablaw.com

MAUREEN LENNON
WHITE & CASE
mlennon@whitecase.com

GREGORY KLATT
DOUGLASS & LIDDELL
klatt@energyattorney.com

DANIEL W. DOUGLASS
DOUGLASS & LIDDELL
douglass@energyattorney.com

BETH A. FOX
SOUTHERN CALIFORNIA EDISON COMPANY
beth.fox@sce.com

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
case.admin@sce.com

FRITZ ORTLIEB
CITY OF SAN DIEGO
fortlieb@sandiego.gov

LISA URICK
SAN DIEGO GAS & ELECTRIC COMPANY
lurick@sempra.com

THEODORE ROBERTS
SEMPRA ENERGY
troberts@sempra.com

MICHAEL SHAMES
UCAN
mshames@ucan.org

NORMAN J. FURUTA
DEPARTMENT OF THE NAVY
norman.furuta@navy.mil

MARC D. JOSEPH
ADAMS, BROADWELL, JOSEPH & CARDOZO
mdjoseph@adamsbroadwell.com

MICHEL PETER FLORIO
THE UTILITY REFORM NETWORK (TURN)
mflorio@turn.org

NOEL A. OBIORA
CALIFORNIA PUBLIC UTILITIES COMMISSION
nao@cpuc.ca.gov

AUDREY CHANG
NATURAL RESOURCES DEFENSE COUNCIL
achang@nrdc.org

EVELYN KAHL
ALCANTAR & KAHL, LLP
ek@a-klaw.com

NORA SHERIFF
ALCANTAR & KAHL, LLP
nes@a-klaw.com

ROD AOKI
ALCANTAR & KAHL, LLP
rsa@a-klaw.com

BRIAN T. CRAGG
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
bcragg@gmssr.com

JAMES D. SQUERI
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
jsqueri@gmssr.com

JEANNE ARMSTRONG
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
jarmstrong@gmssr.com

JEFFREY P. GRAY
DAVIS WRIGHT TREMAINE, LLP
jeffgray@dwt.com

CHARLES MIDDLEKAUFF
PACIFIC GAS AND ELECTRIC COMPANY
crmd@pge.com

SARA STECK MYERS
ssmyers@att.net

FRANCISCO DA COSTA
ENVIRONMENTAL JUSTICE ADVOCACY
frandacosta@att.net

JENNIFER CHAMBERLIN
STRATEGIC ENERGY, LLC
jchamberlin@sel.com

WILLIAM H. BOOTH
LAW OFFICES OF WILLIAM H. BOOTH
wbooth@booth-law.com

MONA TIERNEY
CONSTELLATION NEW ENERGY, INC.
mona.tierney@constellation.com

WILLIAM H. CHEN
CONSTELLATION NEW ENERGY, INC.
bill.chen@constellation.com

ERIC LARSEN
RCM BIOTHANE
e.larsen@rcmbiothane.com

GREGG MORRIS
GREEN POWER INSTITUTE
gmorris@emf.net

R. THOMAS BEACH
CROSSBORDER ENERGY
tomb@crossborderenergy.com

RICHARD D. ELY
DAVIS HYDRO
hydro@davis.com

GRANT A. ROSENBLUM
CALIFORNIA ISO
grosenblum@caiso.com

MARY LYNCH
CONSTELLATION ENERGY COMMODITIES GROUP
mary.lynch@constellation.com

ANDREW B. BROWN
ELLISON, SCHNEIDER & HARRIS, LLP
abb@eslawfirm.com

MICHAEL ALCANTAR
ALCANTAR & KAHL, LLP
mpa@a-klaw.com

ALAN COMNES
WEST COAST POWER
alan.comnes@dynegy.com

ADRIAN PYE
ENERGY AMERICA, LLC

JIM MAYHEW
NRG ENERGY
jim.mayhew@nrgenergy.com

RICK C. NOGER
PRAXAIR PLAINFIELD, INC.

JOHN P. MATHIS
EDISON MISSION ENERGY
jmathis@edisonmission.com

ERIC YUSSMAN
FELLON-MCCORD & ASSOCIATES
eyussman@knowledgeinenergy.com

RALPH DENNIS
FELLON-MCCORD & ASSOCIATES
ralph.dennis@constellation.com

DOUGLAS MCFARLAN
MIDWEST GENERATION EME
dmcfarlan@mwgen.com

JAMES ROSS
RCS, INC.
jimross@r-c-s-inc.com

E.J. WRIGHT
OCCIDENTAL POWER SERVICES, INC.

STEVE KOERNER
EL PASO CORPORATION
steve.koerner@elpaso.com

WAYNE TOMLINSON
EL PASO CORPORATION
william.tomlinson@elpaso.com

DOUG LARSON
PACIFICORP
doug.larson@pacifcorp.com

STACY AGUAYO
APS ENERGY SERVICES
stacy.aguayo@apses.com

ROBERT S. NICHOLS
NEW WEST ENERGY

MARY O. SIMMONS
SIERRA PACIFIC POWER COMPANY
msimmons@sierrapacific.com

BILL CHEN
CONSTELLATION NEW ENERGY, INC.

MICHAEL MAZUR
3 PHASES ELECTRICAL CONSULTING
mmazur@3phases.com

ROGER PELOTE
THE WILLIAMS COMPANY, INC.
roger.pelote@williams.com

BOB TANG
CITY OF AZUSA
btang@ci.azusa.ca.us

FRANK ANNUNZIATO
AMERICAN UTILITY NETWORK INC.
allwazeready@aol.com

AKBAR JAZAYEIRI
SOUTHERN CALIFORNIA EDISON COMPANY

RONALD MOORE
SOUTHERN CALIFORNIA WATER CO.
rkmoore@scwater.com

MEGAN SAUNDERS
SEMPRA ENERGY SOLUTIONS

HANK HARRIS
CORAL POWER, LLC

SERVICE LIST – R.06-02-013
(Updated March 3, 2006)

JENNIFER PORTER
DIEGO REGIONAL ENERGY OFFICE
jennifer.porter@sdenergy.org

SUSAN FREEDMAN
SAN DIEGO REGIONAL ENERGY OFFICE
susan.freedman@sdenergy.org

THOMAS BLAIR
CITY OF SAN DIEGO
tblair@sandiego.com

THOMAS DARTON
PILOT POWER GROUP, INC.
tdarton@pilotpowergroup.com

WENDY KEILANI
SAN DIEGO GAS & ELECTRIC
wkeilani@semprautilities.com

STEVE RAHON
SAN DIEGO GAS & ELECTRIC COMPANY

JOHN W. LESLIE
LUCE, FORWARD, HAMILTON & SCRIPPS, LLP
jleslie@luce.com

KERRY HUGHES
STRATEGIC ENERGY, LTD

DAVID J. COYLE
ANZA ELECTRIC COOPERATIVE, INC

LAWRENCE KOSTRZEWA
EDISON MISSION ENERGY
lkostrzewa@edisonmission.com

PHILIP HERRINGTON
EDISON MISSION ENERGY
pherrington@edisonmission.com

LYNELLE LUND
COMMERCE ENERGY, INC.
llund@commerceenergy.com

LILI SHAHRIARI
AOL UTILITY CORP.

GEORGE HANSON
CITY OF CORONA
george.hanson@ci.corona.ca.us

OSA L. WOLFF
SHUTE, MIHALY & WEINBERGER LLP
wolff@smwlaw.com

REGINA COSTA
THE UTILITY REFORM NETWORK
rcosta@turn.org

SHERIDAN J. PAUKER
SHUTE, MIHALY & WEINBERGER LLP
pauker@smwlaw.com

Laurence Chaset
CALIF PUBLIC UTILITIES COMMISSION
lau@cpuc.ca.gov

Regina DeAngelis
CALIF PUBLIC UTILITIES COMMISSION
rmd@cpuc.ca.gov

DEVRA WANG
NATURAL RESOURCES DEFENSE COUNCIL
dwang@nrdc.org

KAREN TERRANOVA
ALCANTAR & KAHL, LLP
filings@a-klaw.com

SEEMA SRINIVASAN
ALCANTAR & KAHL
sls@a-klaw.com

ED LUCHA
PACIFIC GAS AND ELECTRIC COMPANY
ell5@pge.com

EDWARD G. POOLE
ANDERSON & POOLE
epoole@adplaw.com

CALIFORNIA ENERGY MARKETS
CEM@newsdata.com

PHILIPPE AUCLAIR
phil@ethree.com

RICHARD W. RAUSHENBUSH
LATHAM & WATKINS
Richard.Raushenbush@lw.com

ROBERT B. GEX
DAVIS WRIGHT TREMAINE LLP
robertgex@dwt.com

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
judypau@dwt.com

EDWARD C. REMEDIOS
ecrem@ix.netcom.com

GRACE LIVINGSTON-NUNLEY
PACIFIC GAS AND ELECTRIC COMPANY
gxl2@pge.com

NINA BUBNOVA
PACIFIC GAS AND ELECTRIC COMPANY
nbb2@pge.com

SEBASTIEN CSAPO
PACIFIC GAS AND ELECTRIC COMPANY
sscb@pge.com

SOUMYA SASTRY
PACIFIC GAS AND ELECTRIC COMPANY
svs6@pge.com

VALERIE WINN
PACIFIC GAS & ELECTRIC
vjw3@pge.com

BRIAN K. CHERRY
PACIFIC GAS AND ELECTRIC COMPANY
bkc7@pge.com

KENNETH E. ABREU
k.abreu@sbcglobal.net

ANDREW J. VAN HORN
VAN HORN CONSULTING
andy.vanhorn@vhcenergy.com

KEVIN BOUDREAUX
CALPINE POWER AMERICA-CA, LLC

STEVEN S. SCHLEIMER
CALPINE CORPORATION
sschleimer@calpine.com

GREGORY T. BLUE
DYNEGY INC.
greg.blue@dynegy.com

TED POPE
COHEN VENTURES, INC./ENERGY SOLUTIONS
ted@energy-solution.com

JODY S. LONDON
JODY LONDON CONSULTING
jody_london_consulting@earthlink.net

MRW & ASSOCIATES, INC.
mrw@mrwasoc.com

WILLIAM A. MONSEN
MRW & ASSOCIATES, INC.
mrw@mrwassoc.com

DAVID MARCUS
dmarcus2@sbcglobal.net

RYAN WISER
BERKELEY LAB
rhwiser@lbl.gov

JAN REID
COAST ECONOMIC CONSULTING
janreid@coastecon.com

C. SUSIE BERLIN
MCCARTHY & BERLIN LLP
sberlin@mccarthylaw.com

CHRISTOPHER J. MAYER
MODESTO IRRIGATION DISTRICT
chrism@mid.org

JOY A. WARREN
MODESTO IRRIGATION DISTRICT
joyw@mid.org

BARBARA R. BARKOVICH
BARKOVICH & YAP, INC.
brbarkovich@earthlink.net

JAMES WEIL
AGLET CONSUMER ALLIANCE
jweil@aglet.org

CAROLYN KEHREIN
ENERGY MANAGEMENT SERVICES
cmkehrein@ems-ca.com

CALIFORNIA ISO
e-recipient@caiso.com

SAEED FARROKHPAY
FEDERAL ENERGY REGULATORY COMMISSION
saeed.farrokhpay@ferc.gov

RAYMOND LEE
MOUNTAIN UTILITIES
rlee@kirkwood.com

SCOTT TOMASHEFSKY
NORTHERN CALIFORNIA POWER AGENCY
scott.tomashefsky@ncpa.com

ED CHANG
FLYNN RESOURCE CONSULTANTS, INC.
edchang@flynnrci.com

BRUCE MCLAUGHLIN
BRAUN & BLAISING, P.C.
mclaughlin@braunlegal.com

JANE E. LUCKHARDT
DOWNEY BRAND LLP
jluckhardt@downeybrand.com

KEVIN WOODRUFF
WOODRUFF EXPERT SERVICES
kdw@woodruff-expert-services.com

SERVICE LIST – R.06-02-013
(Updated March 3, 2006)

LYNN HAUG
ELLISON, SCHNEIDER & HARRIS, LLP
lmh@eslawfirm.com

PIERRE H. DUVAIR, PH.D
CALIFORNIA ENERGY COMISSION
pduvair@energy.state.ca.us

STEVEN KELLY
INDEPENDENT ENERGY PRODUCERS ASSN
steven@iepa.com

KAREN MILLS
CALIFORNIA FARM BUREAU FEDERATION
kmills@cfbf.com

ROBERT E. BURT
bburt@macnexus.org

KAREN LINDH
LINDH & ASSOCIATES
karen@klindh.com

ROBERT MARSHALL
PLUMAS-SIERRA RURAL ELECTRIC CO-OP

LAURA ROOKE
PORTLAND GENERAL ELECTRIC
laura.rooke@pgn.com

JESUS ARREDONDO
NRG ENERGY INC.
jesus.arredondo@nrgenergy.com

TIM HEMIG
NRG ENERGY
tim.hemig@nrgenergy.com

Andrew Campbell
CALIF PUBLIC UTILITIES COMMISSION
agc@cpuc.ca.gov

Carol A. Brown
CALIF PUBLIC UTILITIES COMMISSION
cab@cpuc.ca.gov

Donald J. Brooks
CALIF PUBLIC UTILITIES COMMISSION
dbr@cpuc.ca.gov

Donald R. Smith
CALIF PUBLIC UTILITIES COMMISSION
dsh@cpuc.ca.gov

Ellen S. LeVine
CALIF PUBLIC UTILITIES COMMISSION
esl@cpuc.ca.gov

Jerry Oh
CALIF PUBLIC UTILITIES COMMISSION
joh@cpuc.ca.gov

Kathryn Auriemma
CALIF PUBLIC UTILITIES COMMISSION
kdw@cpuc.ca.gov

Merideth Sterkel
CALIF PUBLIC UTILITIES COMMISSION
mts@cpuc.ca.gov

Nancy Ryan
CALIF PUBLIC UTILITIES COMMISSION
ner@cpuc.ca.gov

Robert L. Strauss
CALIF PUBLIC UTILITIES COMMISSION
rls@cpuc.ca.gov

CARYN HOLMES
CALIFORNIA ENERGY COMMISSION
cholmes@energy.state.ca.us

CLARE LAUFENBERG
CALIFORNIA ENERGY COMMISSION
Claufenb@energy.state.ca.us

DAVID VIDAVER
CALIFORNIA ENERGY COMMISSION
dvidaver@energy.state.ca.us

KAREN GRIFFIN
CALIFORNIA ENERGY COMMISSION
kgriffin@energy.state.ca.us

LISA DECARLO
CALIFORNIA ENERGY COMMISSION
ldecarlo@energy.state.ca.us

MIKE RINGER
CALIFORNIA ENERGY COMMISSION
mringer@energy.state.ca.us

ROSS MILLER
CALIFORNIA ENERGY COMMISSION
rmiller@energy.state.ca.us

ANDREW ULMER
CALIFORNIA DEPARTMENT OF WATER RESOURCE
aulmer@water.ca.gov

PUC/X75761.v1