

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking to
Integrate and Refine Procurement
Policies and Consider Long-Term
Procurement Plans.

Rulemaking 10-05-006
(Filed May 6, 2010)

**JOINT MOTION OF THE DIVISION OF RATEPAYER ADVOCATES,
AND THE UTILITY REFORM NETWORK FOR CLARIFICATION
REGARDING TRACK II BUNDLED PLANS AND REQUEST FOR
ORDER SHORTENING TIME TO RESPOND**

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March 15, 2011

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I. INTRODUCTION

Pursuant to the Rule 11.1 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA), and The Utility Reform Network (TURN) (collectively the "Joint Parties") submit this motion for an expedited ruling clarifying the purpose and contents of the Track II bundled plans. Under the current schedule set forth in the Administrative Law Judge's Scoping Memo for Track II Bundled Procurement Plans (hereafter, the "Track II Scoping Memo") dated January 13, 2011¹, and direction provided to the IOUs by Energy Division staff², the Investor Owned Utility (IOU) Bundled plans must include an analysis of the IOU's procurement needs and resources incorporating the standardized planning assumptions, and may also include a plan based on the IOU's preferred alternate assumptions.

The inclusion of the standardized planning and alternate assumptions in the Bundled plans unnecessarily complicates the Track II schedule, and will introduce controversial issues subject to challenged by multiple parties, necessitating additional

¹ Administrative Law Judge's Scoping Memo for Track II Bundled Procurement Plans dated January 13, 2011, as updated in the Administrative Law Judge's Ruling of February 18, 2011.

² See Motion of Southern California Edison Company to Modify the Schedule for the Track II Bundled Procurement Plan (February 8, 2011), p. 1.

discovery and hearing time in the Track II schedule. The standardized planning assumptions and any IOU alternate assumptions are the subject of the Track I System plan filings, and will be litigated at evidentiary hearings scheduled for two weeks in August, 2011. The Joint Parties submit that it would be duplicative to include these assumptions in the IOU Bundled plans, giving rise to the need to litigate these same issues in Track II. Moreover, there is insufficient time to fully address the planning assumptions in the one week of hearings in May allotted in the Track II schedule, much less to perform the needed discovery. Finally, it is unclear to the Joint Parties how a Commission decision approving the IOU Bundled procurement plans would not implicitly approve the underlying assumptions and/or alternate assumptions relied upon in those plans.

For these reasons, the Joint Parties request that the Administrative Law Judge clarify the purpose and content of the Track II Bundled plans. The Joint Parties suggest two possible clarifications:

Option 1: A ruling clarifying that the standardized planning assumptions and IOU alternate assumptions not be included in the Track II plans at all. This is the preferred option. Once these assumptions have been fully litigated and decided in Track I, if necessary, the IOUs could file an update to their Track II bundled procurement plans via a Tier 3 advice letter.

Option 2: A ruling clarifying that the planning assumptions and IOU alternative assumptions in the IOU's Track II bundled plans are advisory and for information or reference purposes only. The ALJ could also clarify that these planning assumptions are not being approved in the Track II plans, and therefore are not to be litigated in the Track II evidentiary hearings.

The Joint Parties also request an expedited response time to this motion, as the Track II bundled plans are currently due by March 25, 2011. Specifically, it is requested that any responses to this motion be filed by March 18 and that the Joint Parties be allowed to file a reply to responses by March 21 so that a ruling can be issued on this motion no later than March 23, 2011.

II. DISCUSSION

A. The Track II Scoping Memo Needs Clarification.

The Track II Scoping Memo recognized the wide range and complexity of issues before the Commission in the Long Term Procurement Plan (LTPP) proceeding and sought to streamline the process by limiting the scope of the Track II Bundled Plans. Thus, the Scoping Memo provided that the Track II Bundled Plans would not “incorporate the broader issues relating to system need determination being addressed in Track I.”³ Yet, the scoping memo also directs the IOUs to submit “sufficient and fully supported Bundled Track II plans based upon the current Standardized Planning Assumptions” and authorized the IOUs to include “Bundled Track II plans based upon other assumptions in addition to the plans based on the standardized assumptions.”⁴

There is an apparent contradiction in the scoping ruling itself, because by including the standardized planning assumptions and, in particular, the IOU-preferred alternate assumptions in the Bundled plans, this introduces all of the broader system need and resource determinations that the scoping memo meant to exclude from these plans. Thus, it is impossible for the IOUs to comply with the direction in the Track II Scoping Memo, and at the same time avoid litigation of the broader Track I issues that the scoping memo seeks to achieve.

B. The System Need and Resource Should Be Litigated Once, in Track I.

The approval of the IOU Bundled plans is meant to be a fairly straightforward and narrow process consisting of the review of the utilities short to medium term procurement practices based on the existing resources available to the utility. The procurement of new resources is not authorized in the Bundled plans, and thus these plans are not highly controversial, and hearing time is limited and may not be necessary. In contrast, the System Plans involve broad policy issues and a determination of the need for new resources for the next ten years. The Track I System Plans are the primary documents in which planning assumptions are to be implemented and tested, as explained in Section

³ Track II Scoping Memo, p. 1.

⁴ Track II Scoping Memo, pp. 3-4.

3.1 of the Scoping Ruling and Memo issued on December 3, 2010. Due to the long-term implications, more parties are interested in the outcome and in challenging the assumptions underlying the System plans.

Since the long term need and planning for new system and local reliability resources must be determined in Track I,⁵ it makes sense that all litigation on the standardized planning assumptions should take place in Track I, and the results should inform the Track II Bundled plans. The Bundled plans are best viewed as a living document, which can be updated (via a Tier 3 Advice Letter) as the Commission's requirements change. This process was summarized by The Utility Reform Network (TURN) at the December 2010 Prehearing Conference.⁶ The problem identified by the Joint Parties is that under the current Track II Scoping Memo, the IOUs are required to include the standardized planning assumptions and possibly IOU-preferred assumptions in their Track II Bundled plans. The results in one of two problems: either the Commission will either be approving Track II plans including these assumptions before they have been fully litigated, or the Commission will be forced to litigate these assumptions twice as parties undoubtedly will be compelled to challenge these controversial assumptions regarding system need in the Track II hearings.

III. CONCLUSION

For the foregoing reasons, the Joint Parties request that the Commission issue a ruling clarifying that the standardized planning assumptions and IOU-alternate assumptions not be included in the Track II Bundled plans. Once these assumptions have been fully litigated and decided in Track I, if necessary, the IOUs could file an update to their Track II Bundled plans via a Tier 3 Advice Letter. Alternatively, the Joint Parties request a ruling clarifying that the planning assumptions and IOU-alternate assumptions

⁵ Assigned Commissioner and Administrative Law Judge's Joint Scoping Memo and Ruling (December 3, 2010) pp. 3-5.

⁶ Attachment A: Prehearing Conference 2 Transcript (December 20, 2010) pp. 107-112.

in the IOU's Track II Bundled plans are advisory and informational only, and are not to be approved or litigated in Track II.

Finally, the Joint Parties request any responses to this Motion be filed by March 18 and that the Joint Parties be allowed to file a reply to responses by March 21 so that a ruling can be issued on this Motion no later than March 23, 2011.

Respectfully submitted,

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