

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue)	
Implementation and Administration of the)	Rulemaking 11-05-005
California Renewables Portfolio Standard)	(Filed May 5, 2011)
Program.)	
)	
)	
)	
_____)	

**REPLY IN SUPPORT OF SOUTHERN CALIFORNIA EDISON COMPANY’S (U 338-E)
PETITION FOR MODIFICATION OF DECISION 10-12-048**

Pursuant to Rule 16.4(g) of the California Public Utilities Commission’s (“Commission’s”) Rules of Practice and Procedure, Southern California Edison Company (“SCE”) files this Reply in Support of its Petition for Modification of Decision 10-12-048 (“the Decision”) Adopting the Renewables Auction Mechanism (“RAM.”) On January 20, 2012, Administrative Law Judge DeAngelis, in written e-mail correspondence, granted SCE’s request, pursuant to Rule 16.4(g), to file a reply in support of its Petition.

I.

INTRODUCTION

None of the responses to SCE’s Petition for Modification (“Petition”) of the Decision dispute that SCE has provided sufficiently detailed information to support the stated goals of the Decision or small renewable generators’ efforts to find viable interconnection locations. Nor do responders explain precisely why additional information is necessary or outweighs the serious public safety concerns presented by unrestricted disclosure of detailed information about SCE’s entire distribution and transmission system. Instead, responders make specious assertions that

the information SCE seeks to keep confidential is a matter of public record, which if true, would eliminate any controversy for the Commission to resolve or the need to seek a Commission decision compelling disclosure. SCE therefore respectfully requests that the Decision be modified as set forth above and in Attachment A to the Petition to clarify that the maps SCE has already posted on its website comply with the Decision.

II.

DISCUSSION

A. The Maps SCE Posted on its Website are Sufficient to Support Small Generation

The Decision required SCE “to provide the ‘available capacity’ at the substation and circuit level, which [it] define[d] as the total capacity minus the allocated and queued capacity,” in map format on a monthly basis.¹

Notably, not a single party has acknowledged, much less disputed, the very first and principal argument SCE advanced in support of its Petition for Modification (“Petition”), namely that SCE complied with this mandate by disclosing on the maps it posted to its website the “available capacity” and the general location of distribution substations where small generators eligible for the RAM program can interconnect. Nor has any party demonstrated why RAM generators need additional information to determine where to interconnect. In fact, the data SCE already provided should accomplish all of the goals identified in the Independent Energy Producers Association’s (IEP’s”) Response.²

SCE believed that it fully complied with the Decision by posting the maps on its website, until the Resolution (1) broadly construed the scope of the RAM Decision as directing “the IOUs to provide system wide information over time for both the distribution and transmission systems” in “maps that cover the whole service territory,” and (2) ordered SCE to “provide maps that cover both the distribution and transmission systems by March 31, 2012.”³ The Resolution

¹ Decision at pp. 70-71.

² IEP Response at pp. 2-3.

³ Resolution at pp. 18, 21.

suggested that SCE's maps should resemble those posted by PG&E, which provide detailed data for PG&E's entire "distribution system circuits and transmission system substations and lines."⁴

No responding party has contradicted SCE's assertion that the unrestricted dissemination of detailed capacity information for the entire system is unnecessary or that the information already released is sufficient to support small generation. Moreover, even if the Resolution correctly construed the Decision as requiring the release of "available capacity" for the transmission system, it is not feasible to calculate available capacity on a monthly basis for SCE's transmission system. There is a fundamental difference between SCE's transmission and distribution systems. Available capacity is not a value that is calculable on a monthly basis for the transmission system due to its topology. Instead, large generators who require transmission system information to make transmission system interconnection decisions obtain available capacity calculations based on complex models and interconnection studies that can take more than a year to complete. By contrast, interconnection studies used to calculate available capacity for the smaller load distribution system can be completed quickly and updated on the maps posted on SCE's website on a monthly basis. In any event, only information about the distribution level is relevant to 20 MW or smaller RAM generators. Finally, for the reasons discussed in SCE's Petition, the dissemination of detailed location and capacity information for the transmission system line routes and substations presents an unjustifiable threat to public safety, especially when the information already provided is sufficient to meet the goals of the Decision.⁵

If SCE misconstrues the scope of the Decision and Resolution, the Commission should so state and clarify that the maps SCE has already posted on its website are sufficient to comply with the Decision.

⁴ *Id.* at p. 19.

⁵ Petition at pp. 4-5.

B. The CII Act is Ambiguous and Regardless of Whether it Applies or Not, Protecting the Public Safety Should be the Commission’s Paramount Concern

Clean Coalition claims that the Homeland Security Act’s provisions governing critical infrastructure information (“CII”) only apply to state and local governments if they receive information from the Department of Homeland Security (“DHS”), which must have previously received it from a private entity.⁶

First, the Act is ambiguous in this respect. The Act provides, in pertinent part, that “[n]otwithstanding any other provision of law, critical infrastructure information . . . that is voluntarily submitted to [the DHS] for use by that agency regarding the security of critical infrastructure and protected systems . . . [¶] (A) shall be exempt from disclosure under . . . the Freedom of Information Act . . .” and “(E) shall not, if provided to a State or local government of government agency . . . [¶] . . . be made available pursuant to any State or local law requiring disclosure of information or records.”⁷ The Act does not explicitly state that a state or local governmental entity must receive CII after receipt by a DHS agency and from that DHS agency. Indeed, the Act does not identify the submitter; rather, it merely protects the disclosure of CII by a state agency in possession of such information. Nor do the Act’s regulations specify that DHS must be the submitter of CII to a state agency; they merely provide that CII “shall be treated as exempt from disclosure under [FOIA] and any State or local law requiring disclosure of records or information” and that “State and local governments receiving [CII] shall not share that information . . .” except as permitted in the regulations.⁸ Both state and federal agencies in receipt of CII are prohibited from utilizing it “other than for the purpose of protecting critical infrastructure or protected systems. . . .”⁹

⁶ Clean Coalition Response at pp. 1-2.

⁷ 6 U.S.C. § 133(a) (1), (E) (i).

⁸ 6 C.F.R. § 29.8 (d) and (g)

⁹ 6 U.S.C § 133(a) (1), (E) (iii); *see also* 6 C.F.R. § 29.3(b).

Second, as San Diego Gas & Electric (“SDG&E”) acknowledged in its response,¹⁰ to read the Act so narrowly frustrates its purpose, namely to prevent terrorist attacks on the United States by safeguarding infrastructure information that is not in the public domain and that relates to security.¹¹ Even assuming, arguendo, that the Act does not apply, as a regulator of public utilities, protecting the public safety should be the Commission’s paramount concern. Since September 11, 2001, there have been repeated warnings that the energy infrastructure could be the target of terrorist attacks, which demonstrate that there is a legitimate concern that such facilities are potential targets for attack.¹² The release of information that could facilitate or increase the likelihood of the success of such an attack is an unnecessary risk to the public safety.

Finally, as SCE noted in its Petition, if the Commission grants SCE the opportunity to work with it and its staff, SCE will conduct research to determine what CII, if any, it has already furnished to the Commission, as well as to other state and federal agencies. Only the Commission knows if it received CII from the federal government.

C. The Notion that the Information Sought is in the Public Domain and Thus Not Entitled to Protection is Belied by Responders’ Requests for Additional Disclosure

Sustainable Conservation simultaneously advances two directly contradictory arguments, namely that the information SCE seeks to protect is publicly available and thus not entitled to protection and that SCE should be forced to reveal granular information that is presumably not publicly available.¹³ The notion that the information sought is publicly available is belied by the

¹⁰ SDG&E Response at p. 4.

¹¹ SDG&E Response at p. 4; 6 U.S.C. § 131(3), § 133(a)(1)(A), (E) (i); *see also* 6 C.F.R. §§ 29.1, 29.8(g).

¹² *See, e.g.*, February 1, 2002 ABCNEWS.com Report, Rumsfeld, Mueller Warn of New Attacks, available at: <http://abcnews.go.com/US/story?id=91949&page=1>; February 28, 2002, New York Times, A Nation Challenged: The Electrical System, Electric Power System Is Called Vulnerable, and Vigilance Is Sought, available at: <http://www.nytimes.com/2002/02/28/us/nation-challenged-electric-system-electric-power-system-called-vulnerable.html?pagewanted=all&src=pm>.

¹³ Sustainable Conservation Response at p. 2. Clean Coalition’s contention that the California Energy Commission’s (“CEC’s”) posting of the Renewable Energy Transmission Initiative (“RETI”) maps revealed the information SCE seeks to keep confidential is also incorrect. SCE provided transmission information to the CEC – a state governmental agency that must keep the information confidential as CII – pursuant to a non-disclosure agreement (“NDA”). The RETI maps the CEC created from such information and posted online do

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very fact that the parties request additional disclosure. If the information was in the public domain, no entity would feel the need to seek a decision compelling its disclosure.

D. Sustainable Conservation’s Demonstrably False Allegation Should be Stricken

Sustainable Conservation’s verified response also advances the unfounded and unsupportable accusation that SCE’s Petition demonstrates that SCE is trying to “stifle deployment of renewable generation.”¹⁴ This allegation is demonstrably false given that SCE cannot engage in such efforts without frustrating its ability to discharge its statutory obligation to procure 33% of its electricity from renewable sources.¹⁵

E. The Interconnection Rulemaking is not the Proper Proceeding to Resolve this Pressing Issue

Determination of this critical issue cannot be made in or delayed pending resolution of the Interconnection Rulemaking as Sustainable Conservation suggests¹⁶ because this Decision’s March 31, 2012 compliance deadline is imminently approaching. If the Commission sees fit, it can alter its position in the final Decision in the Interconnection Rulemaking,¹⁷ although it should be noted that once confidential information is revealed, the damage will be irreversible.

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not reveal capacity or locational details about SCE’s line routes and substations for the transmission system. Again, as responders well know, if such information was publicly available (it is not), there would be no controversy currently before the Commission.

¹⁴ *Id.* at pp. 1-2.

¹⁵ *See* SB 2 (1x)

¹⁶ Sustainable Conservation Response at p. 3.

¹⁷ Section 1708 (“The commission may at any time . . . rescind, alter, or amend any order or decision made by it.”)

III.

CONCLUSION

For the reasons discussed above and in SCE's Petition, SCE respectfully requests that the Decision be modified as set forth above and in Attachment A to the Petition to clarify that the maps SCE has already posted on its website comply with the Decision.

Respectfully submitted,

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Dated: January 25, 2012

VERIFICATION

I am a manager in the Transmission and Distribution Department of Southern California Edison Company and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

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

Executed this **25th** day of **January 2012**, at Rosemead, California.

/s/ Dana Cabbell

By: Dana Cabbell
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