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 12-03-014 (Filed March 22, 2012)

REPLY BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES ON LOCAL RELIABILITY ISSUES

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INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure and consistent with Administrative Law Judge Gamson's direction at the close of hearings,[1] the Division of Ratepayer Advocates (DRA) submits its reply brief on Local Reliability issues in Track I of this rulemaking. Consistent with Judge Gamson's guidance, these reply comments use the numbering convention of the common briefing outline, but omit sections on which DRA has no reply comments.

II. DETERMINATION OF LOCAL CAPACITY REQUIREMENTS (LCR) NEED IN CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO) STUDIES

1. The Commission should evaluate CAISO's LCR/OTC contingency analysis in the context of the entire record, including evidence that preferred resources can reduce residual LCR need.

The CAISO claims that there is "no basis on the record of this proceeding for using a study methodology other than the ISO's LCR/OTC [once-through cooling] contingency analysis for determining local area deficiencies."[2] The CAISO is mistaken that its LCR/OTC contingency analysis should provide the sole basis for this Commission's authorization for SCE to procure resources for 2021 and beyond. The May 17, 2012 "Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge" (Scoping Memo) provided that

> "parties will have the opportunity to present evidence that the ISO's studies should be modified, or that the Commission should consider additional factors beyond the ISO's studies, for the purposes of determining local reliability needs."[3]

Consistent with the guidance in the Scoping Memo, DRA and other parties presented evidence that the CAISO's OTC study failed to account for preferred resources that can be expected to reduce LCR need.[4] The California Alliance for Environmental Justice (CEJA) and the

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[1] Reporter's Transcript (RT) 1384:18-21, 26-28.

[2] Opening Brief of the California Independent System Operator Corporation, September 24, 2012 (CAISO Brief) at 24.

[3] Scoping Memo at 5.

[4] *See e.g.,* DRA's Opening Brief on Local Reliability Issues, September 24, 2012 (DRA Opening Brief) at 11-18; Opening Brief of Sierra Club California on Track 1 issues, September 24, 2012, at 14-16; 19-26.

California Large Energy Consumers Association (CLECA) pointed out that the CAISO uses criteria that exceed the requirements of the Western Electricity Coordinating Council (WECC) and North American Electricity Reliability Corporation (NERC).[5]

Regardless of the criteria the CAISO used to conduct the LCR/OTC study, that study should not be the sole basis for authorizing procurement. The CAISO's witness Mr. Sparks acknowledged that neither the NERC reliability standards nor the WECC reliability standards require the CAISO to procure, or ensure procurement by load serving entities for need that may occur in 2020 or 2021.[6] Mr. Sparks further acknowledged that while the NERC, WECC and CAISO standards require the CAISO to analyze and study future needs, the CAISO's responsibility to procure capacity is limited to actions within its authority and jurisdiction,[7] that is, to plan transmission, not generation.

The CAISO's ability to procure capacity is currently limited to procurement for the year ahead to meet resource adequacy, ancillary services, and system needs.[8] In contrast, this Commission must authorize procurement for load-serving entities to meet the needs of their bundled customers, as well as to meet system and local reliability needs. The Commission should weigh all the evidence presented, including the evidence that:

- demonstrated that failure to include <u>any</u> uncommitted preferred resources in the CAISO's preferred scenario overstates the residual LCR need that SCE will likely face in 2021, and
- showed that there is adequate time to reevaluate SCE's residual LCR need in the 2014 long-term procurement planning (LTPP) proceeding.

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[5] California Environmental Justice Alliance's Track 1 Opening Brief, September 24, 2012, at 8-11; Opening Brief on Track 1 of the California Large Energy Consumers Association, September 24, 2012, at 8-16.

[6] RT at 165:14-26.

[7] RT at 165-27-166:14.

[8] Section 43.2.1 of the CAISO tariff, available at http://www.caiso.com/rules/Pages/Regulatory/TariffArchive/Default.aspx, lists the circumstances that allow the CAISO to use its Capacity Procurement Mechanism.

2. The Commission should not rely on the outage of the San Onofre Nuclear Generating Station (SONGS) to justify procurement of new LCR resources.

The Alliance for Nuclear Responsibility (A4NR) contends that "the uncertain long-term status of the two SONGS units"[9] means that the "LCR procurement need may be substantially greater than the ISO's current estimate."[10] The Commission should not rely on the potential for SONGS to be out of service over the long term to provide the basis for LCR procurement in Track I. The issue was not within the scope of the proceeding, and A4NR points out that "SCE successfully brought motions to strike nearly all testimony by other parties which made reference to SONGS availability."[11] Rather than using the SONGS outage to justify LCR procurement when the issue of SONGS outage was excluded from Track I of this proceeding, the Commission should determine SCE's LCR need on the basis of the record before it.

Track II will consider system reliability issues, including "the potential retirement of existing plants [and] the likelihood of relicensing nuclear plants."[12] While the long-term retirement of nuclear power plants is not identical to the current short term outage of uncertain duration, information developed in Track II could prove useful in evaluating LCR need for SCE (and San Diego Gas & Electric Company) based on the current SONGS outage. In any event, it is premature to base a determination of LCR need for SCE on the SONGS outage, when that issue was excluded from the scope of Track I. Once more is known about the near term capacity of SONGS, the Commission should consider reopening Track I if necessary in order to allow the introduction of evidence and consideration of that issue.

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[9] Alliance for Nuclear Responsibility's Track 1 Opening Brief, September 24, 2012 (A4NR Opening Brief) at 3.

[10] A4nR Brief at 27. Another reason for A4NR's concern that the CAISO's modeling may understate the need for new LCR procurement is the CAISO's "exceptionally optimistic modeling assumption about a distribution load shift between the Mira Loma and Rancho Vista substations..." A4NR Brief at 3. As explained in DRA's Opening Brief on Local Reliability Issues, September 24, 2012 (DRA Opening Brief) DRA is concerned about the apparent miscommunication between the CAISO and Southern California Edison Company regarding the distribution upgrade with the ability to reduce LCR need by 2,000 to 3,000 megawatt (MW), and recommends that the Commission require SCE to work closely with the CAISO to identify cost effective transmission (and distribution) upgrades. DRA Opening Brief at 23-24.

[11] A4nR Brief at 3.

[12] Scoping Memo at 8.

IV. PROCUREMENT OF LCR RESOURCES AND INCORPORATION OF THE PREFERRED LOADING ORDER IN LCR PROCUREMENT

C. If A Need is Determined, How the Commission Should Direct LCR Need to Be Met?

DRA's Brief explained that if the Commission limits SCE's authority to procure LCR resources up to 169 MW for 2021 and up to 278 MW for 2022, then DRA would not oppose SCE's request for flexibility in procuring to meet this amount of LCR need. A4NR generally supports SCE's request for flexible procurement authority,[13] but recommends additional steps for the process, one of which would be useful if the Commission authorizes SCE to procure more than the amount DRA recommends.

First, if the Commission authorizes a process that includes studies/solicitations/bilateral negotiation approach as SCE requests (and as A4NR supports), A4NR recommends semiannual reporting requirements.[14] Second, A4NR recommends that Track I should be temporarily continued after the Commission decision "for the sole purpose of adjusting the determined need of 1,000 MW or more, and a status conference to determine the advisability of doing so should be held within 60 days" of the CAISO's board of governors' adoption of the 2012-2013 Transmission Plan.[15]

DRA continues to recommend that the Commission authorize SCE to procure up to 169 MW for 2021 and up to 278 MW for 2022, and in that event supports SCE's request for flexibility in the procurement process. If the Commission authorizes SCE to procure LCR resources in an amount greater than what DRA recommends, then DRA supports A4NR's recommendation for the inclusion of the semi-annual reporting requirement. DRA does not support keeping Track I open for the purpose of adjusting need, although it does not oppose reopening Track I if necessary to consider evidence related to the continued outage of SONGS.

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[13] A4NR Brief at 13.

[14] A4NR Brief at 22.

[15] A4NR Brief at 22.

VII. OTHER ISSUES

D. CAISO Backstop Procurement Authority to Avoid Violating Federal Reliability Requirements

San Diego Gas & Electric Company (SDG&E) cites dire consequences that may ensue if the Commission does not authorize SCE to procure LCR resources in the amount supported by the CAISO:

> "Parties appear to be unaware of, or simply ignore, the fact that failure to give due consideration to the ISO's recommendation raises the specter that the California ISO, pursuant to its tariffs and authorities that the ISO will seek from the FERC in short order will simply step in to procure the resources to the extent the procurement conducted by SCE fails to provide complete assurance these federal reliability standards and regulations will be satisfied."[16]

DRA agrees that the Commission should prevent a situation in which the CAISO exercises "blunt instruments and second-best procurement tools"[17] to meet federal reliability standards. However, the danger that the CAISO could require procurement now to prevent the potential compromise of reliability standards in 2021 is remote. Currently, the CAISO could use its backstop procurement authority for the year ahead.[18] It is in the process of developing a mechanism that would allow CAISO to make payments to generators at risk of retirement five years in the future. However, there is currently no mechanism that would allow the CAISO to meet a reliability need that is not forecasted to occur until 2021 or to allow the CAISO to procure new generation.[19] Rather than authorizing SCE to procure to meet LCR need that may not materialize, the Commission should limit SCE's procurement authority as DRA recommends, and re-evaluate LCR need in the next LTPP.

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[16] SDG&E Brief at 4-5.

[17] SDG&E Brief at 5.

[18] *See California ISO's Flexible Capacity Procurement Phase 1: Risk of Retirement, Market and Infrastructure Policy, Second Revised Draft Final Proposal,* September 5, 2012, (*CAISO Risk of Retirement)* at 20. ("The existing CPM [capacity procurement mechanism] provides the [CA]ISO with the authority to use its backstop capacity procurement authority to procure capacity from a resource and ensure its availability if it is needed before the end of the second year. However, it does not allow the [CA]ISO to ensure sufficient flexible capacity will be available beyond two years.") (available at http://www.caiso.com/informed/Pages/StakeholderProcesses/FlexibleCapacityProcurement.aspx.)

[19] The CAISO Board of Governors approved the *Flexible Capacity Procurement Phase 1: Risk of Retirement, Market and Infrastructure Policy, Second Revised Draft Final Proposal* at its September 13-14, 2012 meeting. The CAISO has not submitted the necessary tariff changes to the Federal Energy Regulatory Commission.

VIII. CONCLUSION

DRA respectfully recommends that the Commission authorize SCE to procure up to 169 MW for 2021 and up to 278 MW for 2022 to meet residual LCR need, and that it implements the recommendations listed in DRA's Opening Brief.

Respectfully submitted,

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