

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**03-12-07
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Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 06-02-013

This is the proposed decision of Administrative Law Judge (ALJ) Carol A. Brown. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic copies of comments should be sent to ALJ Brown at cab@cpuc.ca.gov. All parties must serve hard copies on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ ANGELA K. MINKINAngela K. Minkin, Chief
Administrative Law Judge

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Attachment

Decision **PROPOSED DECISION OF ALJ BROWN** (Mailed 3/12/2007)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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

Rulemaking 06-02-013
(Filed February 16, 2006)

OPINION MODIFYING DECISION 06-07-029**I. Summary**

This decision addresses the Petition to Modify (PTM) Decision (D.) 06-07-029 filed by Southern California Edison Company (SCE). SCE requests approval to solicit in its current on-going standard-track request for offers (RFO) up to an additional 500 megawatts (MW) of power purchase agreements (PPA) with terms of up to 20 years from new generation facilities. SCE also seeks to extend the cost allocation methodology (CAM) adopted in D.06-07-029 for these PPAs for the duration of their contract term. We grant SCE's request to solicit an additional 500 MW in the standard-track of its open RFO, in addition to the 1,500 MW authorized in D.06-07-029, and modify the 10-year limit on the CAM adopted in D.06-07-029 by allowing SCE the option to continue the CAM by filing an advice letter (AL) in the ninth year of the PPA seeking an extension, with justification, of up to an additional 10 years.

II. Petition to Modify

On July 20, 2006, the Commission issued D.06-07-029 that established a CAM wherein the benefits and costs of new generation resources are shared with all benefiting customers for up to 10 years. That decision also directed SCE to

issue a RFO seeking up to 1,500 MW of new generation. SCE followed through with a RFO that initially solicited two types of proposals: fast-track proposals that could be on-line prior to August 1, 2010; and standard-track projects that could be on-line prior to August 1, 2013. The standard-track RFO is on-going. In its petition, SCE seeks Commission approval to increase its bid solicitations now by an additional 500 MW, instead of waiting until the Commission issues a decision in the long-term procurement plan (LTPP) phase of this rulemaking and formally establishes a new need number for SCE.

SCE represents that in both the fast-track and the standard-track RFO, SCE limited its solicitation to PPAs with terms not exceeding 10 years in order to parallel the 10-year cost sharing mechanism from D.06-07-029. However, SCE argues in its PTM that the generation community would like the opportunity to provide PPAs with terms longer than 10 years and SCE believes that such contracts might provide significant higher value to its consumers. Nevertheless, SCE states that it is unwilling to enter into contracts with terms longer than the period authorized for the CAM because it believes that doing so would unfairly force its bundled customers to subsidize new generation that provides benefits to the entire system.

Therefore, on October 4, 2006, SCE filed a PTM D.06-07-029 to increase its procurement authorization by 500 MW in addition to the 1,500 authorized by D.06-07-029, for PPAs with terms up to 20 years from new generation facilities and to provide that the CAM from D.06-07-029 be applicable to the PPAs for the duration of the commitment.

Responses were received from Alliance for Retail Energy Markets, Direct Access Customer Coalition, Energy Users Forum and Silicon Valley Leadership Group (AReM/DACC/EUP/SVLG); California Manufacturers and Technology

Association and the California Large Energy Consumers Association (CLECA/CMTA); Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc. and Constellation Generation Group, LLC (Constellation); Division of Ratepayer Advocates (DRA); Morgan Stanley Capital Group Inc. (Morgan Stanley); NRG Energy, Inc. (NRG); The Utility Reform Network (TURN); and Western Power Trading Forum (WPTF).

III. Discussion

To begin, we will bifurcate the two requests from SCE in its PTM: (1) to increase SCE's ability to solicit an additional 500 MW of bids for new generation in its current, on-going standard-track RFO, in advance of a finding of need by the Commission in the LTPP phase of the proceeding and (2) to extend the CAM established in D.06-07-029 beyond 10 years.

A. Solicitation of 500 MW of Additional Electric Resources

A majority of responding parties supports SCE's request for authorization to solicit an additional 500 MW of PPAs for electric resources from new generation-in advance of a finding of need in the LTPP phase of the proceeding. We find it reasonable to grant this requested modification to D.06-07-029. SCE therefore is authorized to solicit up to 2,000 MW¹ from PPAs for new generation. SCE is presently involved in establishing its need for resources in the 2006 through 2016 time frame in its LTPP filings. If it appears that SCE's request for up to 2,000 MW of new electric resources needs to be adjusted up or down, revisions can be made in the decision on SCE's LTPP.

¹ This is an approximate range of MW.

B. Extension of 10-Year Cost Allocation Mechanism

SCE does not need any additional direction or authority from this Commission to solicit PPAs with contract terms longer than 10 years. There is no Commission prescription dictating a limit on the length of a contract. In fact, in D.06-07-029 we stated “When D.04-12-048, the RAR decisions and AB 57 are read in concert, the IOUs have no barriers to either building new generation or entering into long-term contracts for new generation.”² However, in D.06-07-029, we also acknowledged that despite all the steps the Legislature and this Commission have taken to see that the state has adequate electric resources, it was clear that there is a need for new generation as early as 2009. Therefore, in D.06-07-029 we established the CAM “on a limited and transitional basis,”³ to encourage the construction of new capacity. While we specified that the cost-sharing mechanism was limited to 10 years, we specifically and definitely did not limit the term of long-term contracts to 10 years.

In anticipation of the development of a new market-based system, we indicated that the CAM would only be in place for the term of the new generation contract or 10 years, whichever is less. We wanted to define the scope and length of the CAM so that it would not impede any transition to a new market-based system currently under development in an open Commission proceeding, R.05-12-013. We also left it open as to whether PPAs eligible for the CAM would automatically transition to the new market-based system if one was

² D.06-07-029, p. 24.

³ D.06-07-029, p. 4.

in place, or whether the CAM would stay in effect for the full 10 years.

D.06-07-029 provided this flexibility so that the Commission adopting the new system would have the prerogative to do what was appropriate at the time.

However, we understand that SCE is concerned that in face of the uncertainties surrounding the development and implementation of a market-based system that without some extension mechanism in place for the CAM, its bundled customers might be left subsidizing new generation. D.06-07-029 was issued to fairly allocate the benefits and cost of new generation that provides system benefits, so that the bundled customers of the IOUs do not bear the brunt of the cost. We therefore are persuaded that a modification to the 10-year limit on the CAM, as requested by SCE, is warranted.

C. Option to Extend Cost Allocation Mechanism

We modify the 10-year limit on the CAM in the following manner. SCE may solicit up to 500 MW of CAM eligible PPAs with terms of any length, including terms in excess of 10 years. However, if the PPA is for a term longer than 10 years, the initial CAM will be for 10 years. Then, when the 10-year CAM is in its ninth year, SCE may file an AL seeking a continuation of the CAM for up to an additional 10 years. The total term of the CAM may not exceed the length of the underlying PPA. SCE will have the opportunity to justify why the CAM, and not some other mechanism, is the most appropriate way to fairly allocate the costs and benefits of the PPA.

We feel this is a reasonable modification to D.06-07-029 because it allows both SCE and the Commission to evaluate whether an extension of the CAM is the best mechanism available to protect the bundled ratepayers at the time the request is made. Since many of the PPAs that SCE is considering in its

RFO do not come on-line until 2010 through 2013, we are considering CAMs that could extend until 2020 to 2023. It is reasonable to allow both SCE and the Commission the prerogative to make the best cost allocation decision at that point in time.

We also believe that establishing this option procedure addresses the concerns raised by responding parties. In particular, AReM, CMTA/CLECA, Constellation, Morgan Stanley and WPTF strongly oppose extending the term of the CAM beyond the 10 years established in D.06-07-029, mainly because they believe that an extension will work against the development and implementation of a robust, competitive market. We are also persuaded that an outright extension of the CAM could potentially thwart not only the development of a competitive market structure, but could also inhibit the seamless transition we envision from the limited and transitional CAM to this market-based system. The option procedure gives all interested stakeholders an opportunity to revisit the CAM at the point of its expiration to determine if it is the best methodology to continue the cost and benefit sharing of resources that benefit the system.

IV. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments were filed on _____ and reply comments were filed on _____ .

V. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Carol A. Brown is the assigned ALJ.

Findings of Fact

1. It is reasonable to increase the amount of new generation PPAs that SCE may solicit in its open standard-track RFO by 500 MW, in addition to the 1,500 MW authorized in D.06-07-029.

2. It is reasonable to modify the 10-year limit on the cost allocation methodology established in D.06-07-029 by allowing SCE the option of requesting an extension of the CAM, by advice letter, in the ninth year of the PPA, of up to an additional 10 years, for any PPA that is the result of the 500 MW increase in resource solicitation authority granted herein. The total term of the cost allocation mechanism may not exceed the length of the underlying PPA.

3. This decision reiterates that the utilities do not need any additional direction or authority from this Commission to solicit PPAs for new generation that have contract terms longer than 10 years.

Conclusions of Law

1. Text on page 27 of D.06-07-029 is modified to include the new option to extend the cost allocation mechanism past the 10-year limit established in the decision. All references to limiting the cost allocation mechanism to 10 years is modified so that SCE has the option of continuing the cost allocation mechanism by filing an advice letter in the ninth year of the PPA seeking an extension, with justification, of up to an additional 10 years, for any PPA that is the result of the 500 MW increase in resource solicitation authority granted herein.

2. Text on page 27 of D.06-07-029 is modified to reflect the increase in procurement solicitation authority granted to SCE in this decision. SCE is authorized to increase its procurement solicitation in its on-going standard-track RFO for 500 MW of new generation PPAs, of any length term, and SCE will have the option of requesting an extension of the CAM beyond the 10-year limit

pursuant to the option procedures established herein. The total term of the cost allocation mechanism may not exceed the length of the underlying PPA.

3. Text on page 47 is modified to reflect the increase in procurement solicitation authority granted to SCE in this decision. SCE is authorized to increase its procurement solicitation in its on-going standard-track RFO for 500 MW of new generation PPAs, of any length term, and SCE will have the option of requesting an extension of the CAM beyond the 10-year limit pursuant to the option procedures established herein.

4. Text on page 52 of D.06-07-029 is modified to reflect the increase in procurement solicitation authority granted to SCE in this decision. SCE is authorized to increase its procurement solicitation in its on-going standard-track RFO for 500 MW of new generation PPAs, of any length term, and SCE will have the option of requesting an extension of the CAM beyond the 10-year limit pursuant to the option procedures established herein.

5. Finding of Fact 18 in D.06-07-029 is modified to reflect the increase in procurement solicitation authority granted to SCE in this decision. SCE is authorized to increase its procurement solicitation in its on-going standard-track RFO for 500 MW of new generation PPAs, of any length term, and SCE will have the option of requesting an extension of the CAM beyond the 10-year limit pursuant to the option procedures established herein.

6. Finding of Fact 31 in D.06-07-029 is modified to reflect the increase in procurement solicitation granted to SCE by 500 MW for new generation PPAs for any length term in its standard-track RFO.

7. Ordering Paragraph 1 of D.06-07-29 is modified to reflect the increase in procurement solicitation authority granted to SCE by 500 MW for new generation PPAs for any length term in its standard-track RFO.

8. Ordering Paragraph 7 of D.06-07-029 is modified to reflect the increase in solicitation authority granted to SCE by 500 MW for new generation PPAs for any length term in its standard-track RFO.

O R D E R

IT IS ORDERED that:

1. The Petition to Modify Decision 06-07-029 filed by Southern California Edison Company (SCE) is granted as to the following: (1) SCE is authorized to increase its resource procurement solicitation by up to 500 megawatts (MW) of power purchase agreements (PPA) of new generation in addition to the 1,500 MW previously approved; and (2) the 10-year limit to the cost allocation methodology (CAM) established in Decision (D.) 06-07-029 is modified so that SCE has the option of continuing the CAM by filing an advice letter in the ninth year of the PA seeking an extension of up to an additional 10 years, for any PPA that is the result of the 500 MW increase in resource solicitation authority granted herein. The total term of the CAM may not exceed the length of the underlying PPA.

2. The text, Findings of Fact and Ordering Paragraphs of D.06-07-029 are modified as set forth in Conclusions of Law 1 through 8 above.

3. In all other respects, SCE's Petition to Modify D.06-07-029 is denied.

This order is effective today.

Dated _____, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated March 12, 2007, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

