

Decision 09-05-028 May 21, 2009

**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)

**DECISION GRANTING THE PETITION TO MODIFY DECISION 07-12-052****1. Summary**

This decision grants a petition to modify Decision 07-12-052 to change the reimbursement for a Long-Term Procurement Planning process consultant from a calendar year annual limit of \$400,000 to a fiscal year limit beginning July 1, 2007 for the fiscal year 2007-2008. This proceeding is closed.

**2. Background**

Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company (Joint Utilities) filed a petition to modify the Long-Term Procurement Planning (LTPP) process adopted in Decision (D.) 07-12-052 (the LTPP Decision). The LTPP Decision ordered the Commission's Executive Director to hire a consultant. The Joint Utilities were ordered to reimburse the Commission, and the decision provided the Joint Utilities rate recovery for the consultant's costs that were to be recorded in a new memorandum account. The LTPP Decision authorized \$400,000 annually. The Joint Utilities indicate in the petition that the actual costs have exceeded \$400,000 per year and attribute this to "front-loading," *i.e.*, the work is not spread evenly over time but is weighted to the early years. Commission staff has indicated to

the Joint Utilities that the total contract is for \$1.2 million (which would equal the sum of three years' annual limit of \$400,000 each).<sup>1</sup> The Petition by the Joint Utilities is the only statement in the record which addresses a total contract cost.

### 3. Proposed Modifications

The Joint Utilities ask that we modify D.08-09-045, Ordering Paragraph 13, so that the costs are defined as a total amount of up to \$1.2 million rather than an annual amount of up to \$400,000 for each of three years (3 x \$400,000), to reflect their understanding of the outstanding contract. As an alternative, the Joint Utilities propose a modification so that the costs are defined as a total of \$1.6 million for a four-year period (4 x \$400,000).<sup>2</sup> The Joint Utilities propose this modification to Ordering Paragraph 13:

The Executive Director may hire and manage one or more contractors to perform tasks as described in this order for the purpose of advancing the goals of the Commission's Long-Term Procurement Planning Process. Such costs, if any, shall be limited to work performed in a 36-month period and shall not exceed a total ~~annual~~ amount of ~~\$400,000~~ \$1.2 million.<sup>3</sup> ~~and~~ The total shall be paid by Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company on a

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<sup>1</sup> Petition, p. 2.

<sup>2</sup> For brevity and ease of discussion, we will refer to three years and four years rather than "36 months beginning June 1, 2008," etc.

<sup>3</sup> The request for authorization to reimburse up to \$1.2 million over a 36-month period is consistent with the current \$400,000 annual limit extended for a three-year period. Alternatively, the Joint Parties request that D.07-12-052 be modified to specify that the costs shall not exceed a total of \$1.6 million and that such authorization be limited to a 48-month period (*i.e.*, \$400,000 per year extended over four years). The first month of this 36- or 48-month period should commence from the date that the consultants began work in approximately June 2008. (Footnote in the petition's proposed modification.)

pro rata basis (*i.e.*, 33.3% to each IOU) unless the contractor(s) perform work related to only a specific utility.

#### **4. Discussion**

##### **4.1. Need for Contractors**

The LTPP Decision determined that:

The staff of the Commission must coordinate and consider, in an integrated fashion, all of the Commission's electric resource procurement policies and programs, including implementation of directives from other procurement proceedings relevant to this cycle. In addition, this proceeding is the forum in which we consider potential *future* policies that the federal government, state legislature, the CEC or the Commission may implement that will impact the procurement practices of California's utilities. This is an immense undertaking for the Commission and its staff. (LTPP Decision, pp. 188 - 189.)

The decision enumerated several specific tasks and indicated that the Executive Director should hire and manage a contractor (or contractors) to provide technical support to assist staff. The LTPP Decision included an annual limit, which could be interpreted as a calendar year, of \$400,000 but did not specify the actual years. Specifically, the tasks are to provide technical support to assist staff in the following areas:

- General program design, implementation and evaluation (including process improvements and compliance assurance);
- Design and evaluation, in coordination with the investor-owned utilities (IOUs), of a more rigorous portfolio evaluation approach to long term resource planning, as encouraged by many parties to this proceeding; and
- Other tasks staff identifies to promote LTPP program goals and maintain a reliable, cost-effective, and environmentally sound electric supply in California. (LTPP Decision, pp. 189-190.)

The Joint Utilities do not dispute the hiring of contractors or the \$400,000 annual funding, but seek to make the authorization a total amount for the sum of either three or four years' annual calendar year allowance of \$400,000 which would provide greater flexibility in the timing of the work and subsequent cost reimbursement.

#### **4.2. Fiscal Year Amount**

The proposal generally to convert the limit is reasonable: we note the LTPP Decision never specified an annual calendar year or fiscal year limit. (*See* LTPP Decision § 3.6.3.3.) The Commission staff operates on a fiscal year of July 1 through June 30 of the successive calendar years. Therefore, the staff is most likely to have budget authority on a fiscal year and not a calendar year. In hindsight, an annual calendar year limit for a multi-year program is burdensome to the efficient performance of the designated tasks and administration of the consulting contract(s). Therefore, it is reasonable to modify the LTPP Decision on this issue. We believe that a fiscal year allowance of \$400,000 beginning July 1, 2007 for the 2007-2008 fiscal year is a reasonable modification. Additionally, we further clarify that any unspent money from one fiscal year may be carried over to subsequent fiscal years. This authority extends through fiscal years 2010-2011. Any further modification (*e.g.*, proposed changes in the amount, scope, or duration of this rate authority) should be raised in the most current LTPP proceeding (Rulemaking (R.) 08-02-007) as well as serving such a proposed modification on the service list of this rulemaking (R.06-02-013).

#### **5. Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.3 of the Commission's Rules of Practice and Procedure. The Joint

Utilities timely filed the only comments on May 11, 2009. No one filed a reply. There are minor changes to the decision based on comments.

## **6. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner and Douglas Long is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. The LTPP Decision authorized the Commission's Executive Director to hire consultants and incur up to \$400,000 annually, which would be reimbursed by the Joint Utilities.
2. An annual calendar year limitation is administratively burdensome to efficient contractor performance.
3. Authorization of \$400,000 for each fiscal year beginning July 1, 2007, would clarify the adopted level of funding and enhance contract efficiency.
4. The fiscal year periods should be the periods beginning July 1, 2007 and ending June 30, 2011.

### **Conclusions of Law**

1. To efficiently administer contractor performance the Commission should authorize the Executive Director to incur a total cost not to exceed \$400,000 per fiscal year.
2. The fiscal year periods should be the periods beginning July 1, 2007 and ending June 30, 2011.

**O R D E R**

**IT IS ORDERED** that:

1. The petition to modify Decision 07-12-052 is granted as set forth below.

Ordering Paragraph 13 is modified as follows:

The Executive Director may hire and manage one or more contractors to perform tasks as described in this order for the purpose of advancing the goals of the Commission's Long-Term Procurement Planning Process. For each of four fiscal years beginning July 1, 2007, the Executive Director may spend \$400,000. Any unspent money may be carried over to subsequent fiscal years. The total shall be paid by Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company on a pro rata basis (*i.e.*, 33.3% to each IOU) unless the contractor(s) perform work related to only a specific utility.

2. Rulemaking 06-02-013 is closed.

This order is effective today.

Dated May 21, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners