



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Electric Integrated Resource Planning and
Related Procurement Processes.

Rulemaking 20-05-003

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**REPLY COMMENTS OF CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE
AND SIERRA CLUB ON THE POTENTIAL NEAR-TERM ACTIONS TO
ENCOURAGE ADDITIONAL PROCUREMENT**

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The California Environmental Justice Alliance (“CEJA”) and Sierra Club respectfully submit these reply comments in the above-referenced proceeding in response to the September 8, 2022 Administrative Law Judge’s Ruling Seeking Comments on Staff Paper on Procurement Program and Potential Near-Term Actions to Encourage Additional Procurement (“ALJ Ruling”). These reply comments are timely filed pursuant to the ALJ Ruling.

DISCUSSION

Parties’ Opening Comments discussed three broad issues related to near-term reliability and the Commission’s prior procurement orders. First, many parties, especially the load-serving entities (“LSEs”), advocated for different methods of counting resources and determining compliance with the Commission’s prior decisions. Second, parties presented ways to modify the previous decisions’ resource requirements to incentivize additional resources to count toward meeting the procurement mandates. Third, parties urged the Commission to require additional procurement to either meet needs unmet by the prior presumed baseline resources or to meet needs that have increased in the interim years due to a variety of factors including climate change. CEJA and Sierra Club respond to each of these three overarching issues below.

Initially, CEJA and Sierra Club agree with LSEs that modifications to the prior decisions’ counting methods are important to ensure transparency and fairness. Any changes to a counting method should ensure that LSEs are not penalized for bringing clean resources online more quickly than required,¹ and that the counting methods are fair to all LSEs.²

¹ See Central Coast Community Energy Opening Comments, p. 2.

² Many LSEs cited concerns about fairness of penalties when the delays were due to circumstances beyond their control. See, e.g., San Diego Community Power Opening Comments, East Bay Community Power Opening Comments, SCE Opening Comments, p. 2; AREM Opening Comments, pp. 2-3.

Next, several parties raised ideas for modifying the prior decisions' resource requirements. For example, CalCCA asked for LSEs to be able to trade compliance obligations and for projects without a CAISO deliverability study to temporarily count as meeting requirements.³ These types of suggestions are largely aimed at compliance, not necessarily at increasing the number of resources on the grid. Nevertheless, CEJA and Sierra Club agree that the Commission should examine whether to change some resource requirements from its prior decisions *if* those changes can allow for procurement of more resources that fully comply with climate and air quality requirements. In particular, the Commission should reject requests for bridge capacity that increase the overall climate and air pollution impacts and limit the use of bridge capacity to no more than a year.⁴

At this stage, CEJA and Sierra Club are most concerned about the Commission's actions on the third issue: determining whether near-term procurement is needed and if it is, ordering such procurement. Without clear Commission action soon, California could end up in the same situation it did this summer when it dropped health-protective air pollution requirements and paid dirty backup generators to operate. Most commenting parties do not address this issue, perhaps because they assume that the prior procurement orders will be sufficient or perhaps because they assume this will be handled in the next phase of the proceeding. CEJA and Sierra Club are concerned, though, that such assumptions are incorrect because there is no evidence that prior orders or the next phase of this proceeding will ensure sufficient clean, zero-emissions procurement that will meet needs during the next few years. To ensure that near-term needs are met, the Commission should swiftly conduct a comprehensive need determination to evaluate near-term needs, and then the Commission should require focused procurement of zero-emission resources and programs to meet the identified needs.

(1) The Commission Should Conduct a Comprehensive Need Determination to Evaluate Near-Term Needs.

It is not clear whether additional procurement or resources are necessary before 2025. CAISO believes that near-term resources are necessary,⁵ while other parties, such as the Joint

³ CalCCA Opening Comments, pp. 9-11.

⁴ See SCE Opening Comments, pp. 8-9 (requesting additional authority to add bridge capacity).

⁵ CAISO Opening Comments, p. 2.

CCAs,⁶ believe that the prior procurement orders provide enough insurance to protect grid reliability in the event of project failure. Nevertheless, at this point, it is unlikely that any party knows whether and how much additional near-term resources are needed because the Commission has not conducted a new comprehensive analysis considering all the changes that have occurred since the last assessment. This gap must be remedied. A near-term need calculation is necessary to examine what resources are online given the LSEs' Opening Comments along with the other available resources and developments highlighted in our Opening Comments and the ALJ Ruling such as the increased demand due to electrification. As our Opening Comments describe, the Commission is required to conduct such a near-term need calculation, and coordination with this proceeding is both helpful and necessary.⁷ Specifically, recent legislation requires the Commission, in conjunction with other agencies, to consider whether it is necessary to extend the operation of the Diablo Canyon Nuclear Facility⁸ and to conduct a reliability assessment by December 15, 2022.⁹

No matter what the results of a near-term need assessment are, additional procurement will eventually need to be undertaken. As SCE notes, “[t]here is a substantial need for new clean energy resources to meet California’s clean energy and GHG reduction goals.”¹⁰ In addition, the recent Staff Proposal in the Aliso Canyon investigation suggested significant additional resources are needed in the near-term to meet the goal of retiring the Aliso Canyon Gas Storage Facility expeditiously.¹¹ Parties suggest a wide range of timelines for when procurement could be ordered ranging from after development of the Preferred System Plan, like San Francisco suggests,¹² to the more immediate future like CAISO suggests.¹³ At this point, however, it is not clear *when* the procurement should be ordered given the uncertainty related to the future need. Thus, we recommend that the Commission swiftly conduct a comprehensive need determination

⁶ See Joint CCAs’ Opening Comments, p. 6 (“the Joint CCAs suspect that the status of baseline resources will not create a significant system reliability risk that necessitates an emergency procurement order.”).

⁷ CEJA/SC Opening Comments.

⁸ See CA Senate Bill 846 (2022).

⁹ See Cal. Public Resources Code § 25233.

¹⁰ SCE Opening Comments, p. 4.

¹¹ See I.17-02-002, September 23, 2022 Energy Division Proposal.

¹² See City of San Francisco Opening Comments, pp. 1-3.

¹³ See CAISO Opening Comments, p. 2 (“The Commission should require LSEs to procure these baseline replacement resources as soon as possible (by 2024 at the latest)”).

with the most recent data to determine the appropriate timeline for ordering procurement. If procurement is needed before 2025, the Commission should order that procurement before developing a Preferred System Plan.

Given the uncertainty about the potential need for near-term resources, the Commission should not entertain ordering another specific procurement requirement, like Public Advocates Office (“PAO”) suggests, until after this need determination is conducted.¹⁴ While we agree with PAO that additional resources will be necessary before 2030 and that we should not wait for the development of the programmatic approach,¹⁵ it is not clear why a procurement order could not wait a few months until after an initial need determination is conducted.

We further do not agree with the argument of certain parties that the Commission should only add procurement requirements to 2025 for baseline resources that have not come online in the near-term.¹⁶ While it is important to fill this potential gap, it is not clear what the magnitude of the resulting gap will be without a more comprehensive analysis.

(2) The Commission Should Examine No Regrets Zero-Emission Resources and Programs that Can Be Available in the Near-Term.

To the extent that the Commission believes additional procurement steps should be taken in the near-term, the Commission should ensure that all procured resources are no-regrets, zero-emissions resources consistent with climate, air quality, and equity requirements. Specifically, the Commission should prioritize strengthening and building upon its work in R.20-11-003, which authorized innovative demand-side programs including a residential Emergency Load Reduction Program (“ELRP”), smart thermostats, and a vehicle-to-grid program. These measures along with strategic procurement of energy efficiency, community solar and storage, and thermal storage should be prioritized in the upcoming year to ensure that the grid is strengthened and hardened before high demand events in 2023. Many of these resources also provide a suite of additional economic, health, and resilience benefits for community members who access them.

The Commission should also act expeditiously to ensure that opportunities to utilize funding under the Inflation Reduction Act are not lost. The Opening Comments raised concerns

¹⁴ PAO Opening Comments, pp. 1-2 (summarizing recommendations).

¹⁵ *Id.*

¹⁶ *See, e.g.*, SCE Opening Comments, p. 6 (suggesting that the Commission add back in baseline resources that have not come online to the 2025 requirements).

that mandating additional procurement now could lead to the benefit of the Inflation Reduction Act “being pocketed by developers.”¹⁷ We are also concerned about higher resource costs, and thus we have requested the Commission also focus on resources such as energy efficiency and thermal storage that are not subject to the same market and supply issues.¹⁸ This is also consistent with Energy Division’s proposal in the Aliso Canyon proceeding, which calls for a mix of resources including energy efficiency.¹⁹

We also support the Joint CCAs request to explore how to promote the development of behind-the-meter storage resources to meet some of the prior decisions’ mandates.²⁰ We further support Peninsula Clean Energy’s request for the Commission to work with CAISO to speed up and improve the interconnection study process and to urge Transmission Owners to shorten interconnection times.²¹

While considering new procurement, the Commission should reject harmful fossil and biofuel generation that emits dangerous and toxic pollution. Thus, it should reject SDG&E’s request to merely authorize continuation of the broad procurement directions to the investor-owned utilities like it did in R.20-11-003.²² Not only did these broad procurement orders not result in large amounts of procurement, but they also increased gas capacity, which is inconsistent with the State’s climate, equity, and air quality requirements. Indeed, the California Air Resources Board has recently confirmed that the Scoping Plan should not include any “new natural gas plant capacity for reliability needs.”²³ As detailed in our Opening Comments, the Commission should undertake a targeted approach to require the development and procurement of resources that are not confronting the same types of supply chain issues repeatedly cited in the LSE briefs.

The Commission should also deny the requests by Bioenergy Association to prioritize biofuel procurement.²⁴ Biofuel projects are not an equitable solution for the climate or our

¹⁷ Joint CCAs’ Opening Comments, p. 5.

¹⁸ See CEJA/SC Opening Comments, pp. 5-11.

¹⁹ See I.17-02-002, September 23, 2022 Energy Division proposal.

²⁰ Joint CCAs’ Opening Comments, p. 8.

²¹ Peninsula Clean Energy Opening Comments, pp. 2-3.

²² SDG&E Opening Comments, pp. 1-3.

²³ See CARB, August 19 2022, Proposed Changes for the Final 2022 Scoping Plan, https://ww2.arb.ca.gov/sites/default/files/2022-08/2022SP_changes_August2022.pdf.

²⁴ Bioenergy Association Opening Comments, pp. 2-4.

lungs.²⁵ These projects exacerbate pollution burdens on nearby communities.²⁶ New capacity contracts would lock in additional years of operation for the state's dirtiest power plants, making it more difficult to develop cleaner alternative energy sources in the same areas. Given the significant air quality and GHG impacts of biofuels, the Commission should not allow any additional procurement of biofuel projects and should instead only procure clean, zero-emission resources that will set us forward in our climate goals while benefiting, rather than harming, communities at the frontlines of pollution in California.

CONCLUSION

CEJA and Sierra Club request that the Commission: (1) conduct a new analysis of potential need using the updated baseline; (2) rely on clean resources including community solar and storage, thermal storage, and demand side resources to meet that need; and (3) not allow procurement of any new fossil or biofuel resources. With thoughtful and strategic planning, the Commission can ensure that the future grid meets climate, air quality, and equity requirements every day, even on the highest demand days.

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Respectfully submitted,

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²⁵ CEJA/SC Opening Comments, pp. 19-20

²⁶ *Id.*

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