



ALJ/JF2/asf 5/21/2024

FILED

05/21/24

09:50 AM

R2005003

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

**ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON
STAFF PROPOSAL TO ALLOW TEMPORARY BRIDGE RESOURCES TO
MEET DIABLO CANYON REPLACEMENT OBLIGATIONS**

Summary

This ruling seeks feedback on an attached staff proposal to allow temporary non-emitting or renewables portfolio standard (RPS)-eligible bridge resources to meet the requirements for Diablo Canyon Power Plant (Diablo Canyon) replacement resources detailed in Decision (D.) 21-06-035.

Comments in response to this ruling are due by no later than June 11, 2024, with reply comments due by no later than June 21, 2024.

1. Background

D.21-06-035 required all load-serving entities (LSEs) to acquire specific resources to ensure reliability following the planned closure of Diablo Canyon, including a total of 2,500 megawatts (MW) of zero-emitting capacity, along with an energy component, with the new resources required to be online by June 1, 2025. Subsequent to D.21-06-035, the Commission recommended an extension for Diablo Canyon's retirement, but in the context of integrated resources planning, the Commission is required to plan as if Diablo Canyon is still retiring by 2025.¹

¹ These requirements are contained in Public Utilities Code Section 454.52(f)(1).

In addition, based on reliability analysis and production cost modeling conducted by Commission staff to inform various decisions, including the Preferred System Plan (PSP) portfolio adopted in D.24-02-047, 2025 is expected to be a tight year from an electric reliability perspective.

D.24-02-047 also rejected a petition for modification filed by Southern California Edison Company and Pacific Gas and Electric Company that would have extended the deadline for delivery of the Diablo Canyon replacement resources required by D.21-06-035 by two years, in part due to reliability concerns. However, in D.24-02-047, given that the utilities are stating that procuring eligible resources has been difficult, the Commission expressed openness² to other options to assist with electric system reliability in 2025, while still bringing online the required resources to assist with the replacement of Diablo Canyon benefits as soon as possible.

2. Proposal

In the attachment to this ruling, Commission staff have designed a proposal for allowing the use of modified bridge contracts to meet the Diablo Canyon replacement resource obligations. The bridge resources would be required to be zero-emitting, cover a bridge period of no more than three years, and otherwise meet all of the requirements for the Diablo Canyon replacement resources in D.21-06-035, including being required to be shown to be incremental.

The attachment to this ruling contains the detailed proposal. In response to this ruling, parties are invited to comment on the proposal and all of its provisions.

² See D.24-02-047 at 123.

IT IS RULED that:

1. Interested parties may file and serve comments in response to this ruling and the proposal contained in its attachment by no later than June 11, 2024.
2. Interested parties may file and serve reply comments in response to this ruling by no later than June 21, 2024.

Dated May 21, 2024, at San Francisco, California.

/s/ JULIE A. FITCH
Julie A. Fitch
Administrative Law Judge

(ATTACHMENT A)

Staff Proposal for
Allowing Short-Term, “Bridge” Contracts to
Temporarily Meet Diablo Canyon
Replacement Program Obligations

CPUC Energy Division
May 2024



Prepared by:

Steve Shoemaker

Acknowledgements:

The authors would like to thank colleagues for all the discussions, reviews, and other contributions to the preparation of this document.

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1. Executive Summary

Energy Division staff propose to create a category of “zero-emitting bridge contracts” that load-serving entities (LSEs) may use to temporarily meet the Diablo Canyon Replacement portion of their Mid-Term reliability obligations as described in Decision 21-06-035. Allowing these resources to help LSEs meet the D.21-06-035 Diablo Canyon Replacement obligations is in the best interest of system reliability and California ratepayers, as it will help ensure that the procurement goals of D.21-06-035 are met in the short term, as a bridge until new zero-emitting resources can be added to the grid. If adopted by the California Public Utilities Commission (CPUC), the proposal describes the rationale for allowing such contracts and details the requirements that contracts would need to meet to qualify as zero-emitting bridge contracts. If adopted by the CPUC, the proposal would augment language in prior CPUC decisions prohibiting the use of bridge contracts to meet Diablo Canyon Replacement obligations.

2. Background

The CPUC's Decision Requiring Procurement to Address Mid-Term Reliability (D.21-06-035) required load-serving entities (LSEs) to collectively procure a minimum of 2,500 MW of incremental, zero-emissions capacity by 2025. This procurement order was adopted to ensure reliability following the closure of the Diablo Canyon Nuclear Generating Facility, also known as the Diablo Canyon Power Plant (DCPP).

¹ The requirement that this capacity have zero emissions was adopted pursuant to Senate Bill (SB) 1090, which required the CPUC to ensure that resource plans avoid an increase in greenhouse gas (GHG) emissions following the retirement of the DCPP.²

D.21-06-035 lays out several technical requirements that the Diablo Canyon Replacement resources need to meet; the zero-emitting capacity must be available every day between 5 pm and 10 pm and must be able to deliver at least 5 megawatt-hours (MWh) of energy for every incremental megawatt (MW) of capacity claimed.³ LSEs have been mainly meeting this requirement by combining solar photovoltaics (PV) and energy storage.⁴

In August of 2023, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) filed a Petition for Modification (PFM) to modify D.21-06-035. In that PFM, they request that the deadline for meeting their share of the Diablo Canyon Replacement obligations (500 MW for PG&E and 880 MW for SCE, collectively over half of the overall Diablo Canyon Replacement obligations) be extended from June 1, 2025, to June 1, 2027. Importantly, in their PFM, the parties only requested an extension for the zero-emitting energy portion of their Diablo Canyon Replacement obligations, stating that the MW capacity would be online by the previously established timeline.⁵ They cited a series of challenges - including interconnection delays, supply chain barriers, and permitting issues - as justification for this extension.⁶

In Decision 24-04-027, the CPUC denied PG&E and SCE's PFM, stating that in its current form, it could raise reliability concerns and would create inequities for the LSEs that procured

¹ Although CPUC Decision 18-01-022 approved PG&E's proposal to retire Diablo Canyon in 2024 and 2025, the more recently adopted Decision 23-12-036 extends those retirement dates. However, California State Senate Bill 846 disallows the CPUC or LSEs to include Diablo Canyon capacity in their resource planning activities.

² "The Commission shall ensure that integrated resource plans are designed to avoid any increase in emissions of greenhouse gases as a result of the retirement of the Diablo Canyon Units 1 and 2 powerplant." (See Public Utilities Code Section 712.7(b).)

³ See Ordering Paragraph (OP) 6 of D.21-06-035.

⁴ This conclusion reflects a CPUC staff review of the contracts submitted thus far for Diablo Canyon Replacement compliance. For more information, see *Summary of Compliance with Integrated Resource Planning (IRP) Order D.19-11-016 and Mid Term Reliability (MTR) D.21-06-035 Procurement*.

⁵ At page 2 of Southern California Edison Company's and Pacific Gas and Electric Company's Joint Expedited Petition for Modification of Decision 21-06-035.

⁶ See Southern California Edison Company's and Pacific Gas and Electric Company's Joint Expedited Petition for Modification of Decision 21-06-035.

resources to meet Diablo Canyon Replacement obligations in a timely manner.⁷ In that Decision, the CPUC acknowledged the procurement challenges faced by the IOUs, stating that “we are open to other creative solutions to this near-term problem that will serve to enhance reliability and reduce customer costs.”⁸ Notably, while short-term bridge contracts are currently permitted to temporarily meet some IRP-ordered resources, the previous CPUC decision that the parties’ PFM was requesting be modified (D.23-02-040) disallowed the use of bridge resources to meet Diablo Canyon Replacement obligations. This decision was made for reliability reasons (since even if the parties brought capacity onto the grid, energy was needed to charge batteries needed during peak and net peak hours) and for carbon reduction purposes (since nothing in the petitioners’ request would prohibit bridge energy contracts from using “unspecified” resources that could include carbon content). Overall, the CPUC decided that bridge contracts, as they were designed, could undermine the purpose of the Diablo Canyon Replacement obligation that “was explicitly designed to support firm, clean resources.”⁹

3. Rationale for Allowing Bridge Contracts to Temporarily Meet Diablo Canyon Replacement Obligations

Staff believes that allowing the use of modified bridge contracts to meet Diablo Canyon Replacement obligations is the best way to ensure reliability in the near term (2025-26), a time period that D. 24-04-027 describes as already challenging from a reliability standpoint.¹⁰ Given the challenges described in PG&E and SCE’s PFM, the CPUC’s current options are as follows:

- 1) Continue to prohibit the use of any type of bridge contract to meet Diablo Canyon Replacement obligations. PG&E and SCE, which together hold 1,380 MW which is over half of the 2,500 MW of Diablo Canyon replacement capacity, would be unlikely to meet those obligations. This would likely create a clean energy shortfall relative to the goals set by D.21-06-035, even if the two utilities met the capacity portion of the obligation.¹¹ Additionally, other LSEs that experience delays to Diablo Canyon replacement resources would be unable to make up for the delay.
- 2) Allow all LSEs to use zero-emitting bridge contracts to meet the Diablo Canyon Replacement obligations, helping ensure that capacity goals are met in the near term until

⁷ See page 93 of D.24-04-027.

⁸ See page 123 of D.24-04-027.

⁹ See page 41 of D.23-02-040.

¹⁰ “Thus, any delay we might grant could have a reliability impact in the near term, even if the Diablo Canyon Power Plant itself stays online during this period. The staff analysis included in the October 5, 2023 ALJ ruling showing that 2025 is a year where we already face reliability challenges demonstrates that granting the PFM will likely compound the risk of reduced system reliability.” (See page 94 of D.24-04-027).

¹¹ The CPUC acknowledged that denying the PFM would not increase PG&E and SCE’s ability to meet their Diablo Canyon Replacement obligations in D.24-04-027: “We also recognize that denying the PFM is not likely to create procurement opportunities for the IOUs where there are no projects or only very high-cost projects to be procured.” (See page 123 of D.24-04-027)

longer-term resources come online. The CPUC already described this solution at a conceptual level in the response to parties' comments in D.24-04-027.¹²

Staff believes that expediently enacting Option 2 is in the best interest of reliability and California ratepayers. Staff's proposal, as articulated in Section 4, provides LSEs with a broader range of options for meeting their clean energy obligations in the near term as an interim measure towards allowing LSEs to meet their full D.21-06-035 obligations. Staff notes that, while the PFM focused on the need for short-term energy, this zero-emitting bridge contract option is inclusive of both energy and capacity so as to maximize options available to LSEs.

4. Staff Proposal

CPUC Decision (D.)21-06-035 created a category of short-term (no more than three year) bridge contracts that LSEs could use in the event that a long-term, D.21-compliant resource is delayed. This proposal would create a distinct category of bridge contracts known as "zero-emitting bridge contracts" that would be permissible to be used for Diablo Canyon Replacement Compliance. CPUC staff recognize that a variety of contract types may be used as zero-emitting bridge contracts, but lay out the high-level requirements here.

These zero-emitting bridge contracts would need to meet the following requirements:

- 1) When submitting a zero-emitting bridge contract, an LSE must describe the specific long-term options the LSEs is pursuing to meet its Diablo Canyon Replacement obligations, pursuant to D.23-02-040.**

OP 10 of D.21-06-02-035 states that "in the event of any delay of a resource coming online when contracted to meet a capacity requirement in this decision, a load-serving entity may include a contract provision for other capacity to serve as a bridge to the new resource."¹³ As such, when an LSE submits a zero-emitting bridge contract, that submittal must include a description of the long-term Diablo Canyon Replacement Capacity that the LSE is pursuing and an explanation for the delays in procuring that capacity and/or energy.

- 2) Consistent with the intent of D.23-02-040, an LSE may not use a zero-emitting bridge contract to meet its Diablo Canyon Replacement obligations for a time period longer than three years.**

Bridge contracts, as detailed in D.21-06-035 and D.23-02-040, are intended to be short-term mechanisms to accommodate compliance resource delays. OP 8 of D.23-04-040 states that "a load-serving entity may contract for imported energy as a bridge until the online date of a new

¹² "For example, it may be possible to pair a clean firm imported energy contract with a new stand-alone storage facility in the CAISO area as a bridge for a short period of time (e.g., one to two years) until new resources that meet the Diablo replacement category's requirements come online, provided the quantity of clean energy contracted to charge the storage meets the energy requirements stipulated in D.21-06-035 for the Diablo replacement" (See page 123 of D.24-04-027)

¹³ See OP 10 of D.21-06-035.

compliance resource, from any resource and with any counterparty, for a period of not more than three years.”¹⁴

LSEs cannot meet their Diablo Canyon replacement obligations with zero-emitting bridge contracts for a period longer than three years. The contract that the LSE is using as a zero-emitting bridge contract may be longer than three years, but it will only be eligible to meet the Diablo Canyon replacement obligation for three years.

3) When submitting a zero-emitting bridge contract, an LSE must ensure that the contract, or a combination of the zero-emitting contract and another contract or contracts, meets the Diablo Canyon Replacement capacity and energy requirements as described in D.21-06-035:

OP 6 of D.21-06-035 describes the characteristics that Diablo Canyon Replacement capacity needs to have. A zero-emitting bridge contract may be able to meet those characteristics on its own (e.g., a zero-emitting bridge energy import contract of three years or less that meets the requirements for RA capacity), or it may be part of a “package” that meets all the requirements described D.21-06-035. For instance, an LSE may pair an energy-only zero-emitting bridge contract with capacity that meets the D.21-06-035 eligible capacity requirements, such that in combination, the resources meet the requirements of OP 6 of D.21-06-035.

The means by which an LSE can verify that a submission meets these requirements is detailed in *Energy Division Staff's Responses to Frequently Asked Questions on Mid-Term Reliability Procurement Decision (D.) 21-06-035*, Version 2/28/2024.¹⁵ The provisions of that FAQ apply to zero-emitting bridge contracts (or contract packages) in terms of proving technical compliance with OP 6 of D.21-06-035. Additional questions can be directed to Energy Division staff at IRPDataRequest@cpuc.ca.gov.

4) A zero-emitting bridge contract must meet the zero-emitting standard as applied in D.21-06-035.

D.21-06-035 describes the “zero-emitting” standard as follows: “zero on-site emissions or, if the resources have emissions, they must otherwise qualify under the RPS eligibility requirements.”¹⁶ This standard also applies to zero-emitting bridge contracts. As such, unspecified imports are not permissible, as the CPUC cannot verify that the underlying resources are zero-emitting. Large hydroelectric resources, as they have zero on-site emissions, would be eligible for use as the basis for zero-emitting bridge contracts.

5) Pursuant to D.21-06-035 and D., zero-emitting bridge contracts must be based on resources that are incremental to the MTR baseline list unless the zero-emitting bridge contract is based on imports.

¹⁴ See OP 8 of D. 23-02-040.

¹⁵ This FAQ document is available at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/d2106035_faqv4_1_20240228.pdf.

¹⁶ See page 44 of D.21-06-035.

D.21-06-035 states that Diablo Canyon Replacement resources must be incremental.¹⁷ D.23-04-040 revised the definition of bridge contracts to allow unspecified imports, arguing that “it is not likely to be a long-term arrangement and is not likely to result in any increase or incremental capacity that is fossil-fueled to be built.”¹⁸ By nature, unspecified imports cannot be verified to be incremental under the definition set forth in D.21-06-035. Therefore, imports that serve as the basis for bridge contracts do not need to be incremental. This exception extends to zero-emitting bridge contracts; imports do not need to be incremental to the MTR baseline.

6) LSEs will submit zero-emitting bridge contracts for review in broadly the same manner as bridge contracts are submitted under D.21-06-035,¹⁹ with minor specifications.

D.21-06-035 states that “LSEs will be required to submit procurement information twice yearly, consistent with Decision (D.) 20-12-044 requirements, to show progress toward the capacity procurement requirements in this decision.” LSEs that are not investor-owned utilities (IOUs) will submit zero-emitting bridge contracts in a manner compliance with this section of D.21, as they have all other D.21 contracts.

To the extent that the zero-emitting bridge contracts fit within the parameters set by their Bundled Procurement Plans (BPPs), IOUs will submit these contracts under those BPPs, while also including a description of the long-term Diablo Canyon replacement resources the IOU is pursuing (to be included in the IOU’s overall D.21 submittal documentation). These contracts will be subject to the review standards set by the IOUs’ BPPs.

¹⁷ “...the resources must be incremental, available every day during 5 p.m. through 10 p.m. Pacific Time, and for every 1 MW of incremental capacity, able to deliver at least 5 megawatt hours (MWh) of energy during this daily time period.” (See page 44 of D.21-06-035).

¹⁸ See page 40 of D.23-04-040

¹⁹ “LSEs will be required to submit procurement information twice yearly, consistent with Decision (D.) 20-12-044 requirements, to show progress toward the capacity procurement requirements in this decision.” (See page 3 of D.21-06-035).

5. Conclusion

CPUC Staff puts forth this proposal as a means of meeting the procurement goals set by D.21-06-035 in the short term. Parties are invited to provide feedback on this proposal.

(END ATTACHMENT A)
