

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA**

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

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

**COMMENTS OF ENVIRONMENTAL DEFENSE FUND ON THE PROPOSED
DECISION IN TRACK 4 OF THE LONG-TERM PROCUREMENT PLANNING
DOCKET**

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I. INTRODUCTION

Pursuant to Article 14 of the Commission’s Rules of Practice and Procedure, the Environmental Defense Fund (“EDF”) respectfully submits these comments on the February 11, 2014 Administrative Law Judge David M. Gamson’s Proposed Decision Regarding Track 4 of the Long-Term Procurement Planning docket (“Proposed Decision” or “PD”).¹ These comments are timely submitted pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure. Rule 14.3(c) provides that comments “shall focus on factual, legal or technical errors” in the Proposed Decision.

EDF supports the PD’s emphasis on the IOUs’ meeting their obligations to implement the Loading Order related to procurement and deployment of Preferred

¹ The Proposed Decision requested Comments be filed by March 3, 2014 and not exceed 15 pages.

Resources. However, the PD does not fully account for the Preferred Resources that currently exist or, with the Commission's dedicated attention, could be made available in the near-term.

In particular, EDF demonstrated in the proceeding, without countervailing evidence provided by any other party, that higher penetration of voluntary time-variant rates could fully or partially replace capacity no longer available from the San Onofre Nuclear Generation Station ("SONGS").² Given the increased emphasis on time-variant tariffs that will emerge in 2018, coinciding with estimated additional capacity needs, it is important for the California Public Utility Commission ("CPUC") to acknowledge the role this Preferred Resource could play in reducing the need for additional fossil fuel capacity.

II. DISCUSSION

EDF strongly supports the Proposed Decision's characterization of the Loading Order and the investor-owned utilities ("IOU") obligation to procure Preferred Resources. Specifically, the PD states,

The obligation to procure resources according to the Loading Order is ongoing. In D.12-01-033 at 21, the Commission recognized that procuring additional preferred resources is more difficult than "just signing up for more conventional fossil fuel generation," but consistency with the Loading Order and advancing California's policy of fossil fuel reduction demand strict compliance with the loading order. This clarified Loading Order is a departure from the Commission's previous position of procuring energy efficiency and demand response, then renewable energy, and then allowing "additional clean, fossil-fuel, central-station generation," because "preferred resources require both sufficient investment and adequate time to 'get to scale.'"

Instead of procuring a fixed amount of preferred resources and then procuring fossil-fuel resources, the IOUs are required to continue to procure the preferred resources "to the extent that they are feasibly available and cost effective." While procuring a fixed amount of preferred resources provides flexibility and a clearer

² EDF discussed the use of time-variant rates in its Testimony, and Opening and Reply Briefs.

idea of how to approach the procurement process, the Loading Order approach is more consistent with Commission policy.³

While the Proposed Decision discusses the need to proceed cautiously, so as not to over procure,⁴ the PD's failure to account for all possible demand response (DR) resources (~~"DR"~~) could well lead to over procurement of conventional resources. Because these are likely to be more cost-effective than investing in long-term fossil fuel facilities, this decision could impose avoidable costs on ratepayers and the environment.

In particular, and as stated in its testimony and Opening and Reply Briefs, EDF estimates in Southern California Edison's service territory that if just 20 percent of ratepayers adopted the utility's existing voluntary time-variant rate ("TOU"), peak demand would fall by almost 630 megawatts ("MW"), more than enough to address that utility's uncertain need for 500 MW. If half of Edison's residential ratepayers adopted the TOU tariff, almost 1,600 MW of peak demand would be avoided, or two-thirds of SONGS capacity.⁵ While no party in this proceeding disputed this analysis, the Proposed Decision does not account for the ability of voluntary TOU to help alleviate the closure of SONGS. Additionally, given that recently adopted California Legislation allows for implementation of time-variant rates in 2018 – simultaneous with the modest estimated capacity shortfalls – EDF's analysis provides valuable insight into the Commission's assessment of additional procurement needs.

As stated, EDF strongly supports the Proposed Decision's use of the Loading Order and Preferred Resources to address the closure of SONGS. However, given the strong evidence presented by parties with regard to the current and potential availability

³ Proposed Decision at 14-15, footnotes deleted.

⁴ Proposed Decision at 11.

⁵ EDF-1, p. 13.

of such resources, the additional conventional generation will likely lead to the over-procurement of these costly and polluting resources.

EDF supports the Proposed Decision's framework, which engaged in a broad risk analysis of the resources, and strongly recommends that the Commission formally develop such a decision methodology to be applied in future proceedings. This approach would enable the Commission to implement an adaptive management approach to procurement, which addresses uncertainty while acknowledging the environmental risks and ratepayer costs associated with conventional generation. Such an approach would better capture the resiliency and environmental benefits of Preferred Resources.

III. CONCLUSION

The Environmental Defense Fund respectfully requests the Commission include a finding of fact that TOU rates can reduce the need for fossil fuel procurement; and a finding of law that reflects a comprehensive assessment of the current and potential Preferred Resources available to address the closure of SONGS.

Respectfully signed and submitted on March 3, 2014

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