

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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Order Instituting Rulemaking to Develop
an Electricity Integrated Resource Planning
Framework and to Coordinate and Refine
Long-Term Procurement Planning
Requirements

R.16-02-007

**OPENING COMMENTS OF SHELL ENERGY
NORTH AMERICA (US), L.P. ON THE PRESIDING
JUDGE'S MARCH 18, 2019 PROPOSED DECISION**

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SUMMARY OF RECOMMENDATIONS

1. ESPs should not be required to provide “resource cost” or “rate analysis” information in their IRP filings. ESP cost and rate information is not relevant to ESPs’ procurement obligations or the Commission’s IRP mandate. The Commission is not charged with minimizing costs to direct access customers. The competitive market establishes the prices charged to direct access customers.

2. The Commission should not manage or control ESPs’ resource portfolios. ESPs develop unique portfolios that meet their customers’ requirements, while meeting the State’s procurement mandates. The IRP process should ensure that all LSEs are meeting the State’s procurement mandates, while providing opportunities for individualized procurement decisions.

3. Before it establishes a “procurement track” in this proceeding, the Commission must coordinate consideration of “centralized procurement” of RA capacity (and other reliability/integration resources) in a single proceeding. Stakeholders should not be required to address centralized resource procurement in multiple proceedings.

TABLE OF AUTHORITIES

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In accordance with Rule 14.3 of the Commission's Rules, Shell Energy North America (US), L.P. ("Shell Energy") submits its opening comments on the proposed decision ("PD") that was circulated by Presiding Judge Julie Fitch on March 18, 2019. The PD addresses, among other issues, load-serving entities' ("LSE") 2018 IRP filings, the "preferred system portfolio," and "lessons learned" for use in the 2019-2020 IRP cycle. Shell Energy's opening comments address legal and policy deficiencies in the PD. Proposed revised findings of fact and conclusions of law are set forth in Appendix A.

I.

INTRODUCTION

The Commission should reject the Presiding Judge's recommendation to require ESPs to provide resource cost information in their IRP filings. The Commission does not have authority over the prices paid or the prices charged by ESPs. The Commission does not assess whether an ESP has satisfied its statutory mandates based on the cost of its resources. ESP cost information is not relevant to the Commission's IRP process.

In addition, the PD should be modified to remove language indicating that the Commission will manage or control ESPs' resource procurement decisions. The foundation of the direct access program is the ability of an ESP and its customer to develop a unique mix of supply and demand resources that best meets the customer's requirements, while meeting the State's procurement mandates. The Commission should establish procurement targets and deadlines, and then provide each ESP the flexibility to meet its procurement obligations on an individualized basis.

Finally, the Commission must decide whether consideration of "centralized procurement" of RA capacity (and other reliability/integration resources) will take place in this proceeding or in the resource adequacy ("RA") proceeding (R.17-09-020). The PD's list of potential topics for consideration in the "procurement track" of this proceeding overlaps with the list of "central procurement entity" issues to be addressed through a working group process in the RA proceeding. See D.19-02-022 (February 21, 2019). The Commission should consider the role of a "central procurement entity" in a single proceeding.

II.

ESPs SHOULD NOT BE COMPELLED TO DIVULGE RESOURCE COST INFORMATION IN THEIR IRP PLANS

The PD recommends that the Commission require all LSEs to provide, in their next (2020) IRP plans, “cost and rate analysis” information. PD at pp. 18-19. Over objections raised by ESPs and CCAs, the PD states: “While we agree that the Commission does not approve CCA or ESP rates, the Commission and the Legislature are concerned about overall cost to consumers.” PD at p. 18. Citing P.U. Code Section 454.52(D), the PD continues: “Without cost and rate information submitted in individual IRPs, the Commission has no basis on which to make any determination about compliance with this statutory requirement.” *Id.* at p. 19.

Contrary to the PD’s recommendation, the Commission is not responsible for assessing the reasonableness of prices charged by ESPs to their customers. See P.U. Code Section 394(f). The Commission is also not responsible for the cost of the resources procured by an ESP to serve its retail customers. Direct access customers are sophisticated businesses that have the ability to switch providers based on price or other terms and conditions of service. The Commission has ruled repeatedly that medium and large commercial/industrial direct access customers do not need “protection” from the Commission. See, e.g., D.11-12-018 (December 1, 2011) at p. 68. The competitive market provides a check on the prices charged by ESPs. ESPs must meet State-imposed procurement mandates, regardless of the cost. The Commission does not need to collect ESP resource cost information to “minimize impacts on [direct access] ratepayers’ bills.”

III.

SB 350 DOES NOT AUTHORIZE THE COMMISSION TO DICTATE THE PORTFOLIO MIX FOR ALL LSEs

The PD asserts that the Commission must manage the mix of resources procured by individual LSEs to ensure that all LSEs collectively meet the State's environmental and grid reliability goals. See PD at p. 108. In doing so, the PD seeks to subvert individual customer choice in favor of a "command and control" approach to resource procurement.

The PD states, for example: "[T]he Commission is the only entity in the position to ensure an optimal portfolio that meets the environmental goals, while also allowing the electric system to operate reliably and at least cost to ratepayers." PD at p. 103. The PD expresses the "need for the Commission to adopt an optimized portfolio that balances the environmental, reliability, and cost characteristics across the entire electric system – something that no individual LSE can achieve on its own." PD at p. 109.

Rather than celebrate the creative solutions that ESPs and their customers can pursue to achieve -- and exceed -- the State's GHG emission reduction and reliability goals, the PD recommends that the Commission exercise control over the mix of resources procured by ESPs to serve their customers. The PD's recommendation is unduly prescriptive.

The PD improperly overreaches the Commission's authority under the IRP process. The IRP is not intended to provide the Commission comprehensive authority over an ESP's mix of resources. Within the parameters of statutory procurement mandates (e.g., RPS, RA, GHG emission reduction, and energy storage), an ESP should have maximum flexibility to achieve its own "optimal" resource portfolio. An ESP should be permitted to make procurement choices based on the needs and objectives communicated by its retail customers. Direct access

customers may wish to purchase a mix of retail products from an ESP that is not the same as the Commission's "preferred system portfolio." Supply diversity should not disqualify an ESP's resource portfolio. In fact, an ESP's diverse portfolio may achieve the same -- or better -- results (grid reliability; RPS integration; reduced emissions) than the Commission's "preferred system portfolio."

"Customer choice" means that the customer, not the Commission, decides the optimal mix of resources to meet the customer's requirements. ESPs should be allowed to meet their customers' needs without having to procure in lock-step with the Commission's "optimized" portfolio. ESPs, like the IOUs, must meet statutory procurement mandates. ESPs should be allowed to meet these mandates, as well as their customers' needs, in a flexible manner.

The Commission's role in the IRP process should be limited to setting the GHG emissions goal for all LSEs and then moving out of the way. An ESP must be allowed to achieve the State's emissions reduction goal in a manner that makes the most sense for the ESP and its customers. Diversity and creativity promote innovation and true customer choice. The PD should be modified to recognize the individuality of ESP procurement decisions, while ensuring that statutory mandates are satisfied.

IV.

THE COMMISSION MUST COORDINATE CONSIDERATION OF "CENTRALIZED" RESOURCE PROCUREMENT ISSUES IN A SINGLE PROCEEDING

The PD identifies issues for consideration in a new "procurement" track of this proceeding. PD at p. 136. Identified issues include options for procurement of resources necessary to maintain system reliability and/or to facilitate RPS integration. Id. at p. 133. Shell

Energy does not support centralized procurement of resources to achieve the State’s reliability needs, GHG emission reduction goals, or RPS integration requirements. However, if centralized procurement is to be addressed, this issue must be coordinated with the Commission’s discussion of a “central procurement entity” in Track 2 of the RA proceeding (R.17-09-020).

The PD lists the following issues for consideration in the “procurement” track of this IRP proceeding:

- Who will procure?
- Will all entities procure, or will some just have their customers pay?
- What types of resources and how much should be procured, and by when?
- How will we handle the potential need for joint procurement among multiple smaller entities, for large resources?

PD at p. 136. These issues are currently being addressed in a “working group” process in R.17-09-020, addressing the parameters of a central procurement entity.

The PD acknowledges the importance of “closer coordination on reliability issues and resource adequacy.” PD at p. 150. All of these issues must be coordinated between this IRP proceeding and the RA proceeding. Parties should not be required to litigate these issues in multiple proceedings, in which stakeholders could be subject to competing directives and decisions.

V.

CONCLUSION

The PD should be modified as follows: First, the Commission should eliminate, from the PD, the Presiding Judge’s recommendation to require ESPs to provide resource “cost” information in their IRP filings. Assessing ESP resource cost information is not relevant to the

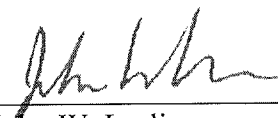
Commission's oversight of ESPs, or the Commission's mandate in the IRP process. The PD does not establish a legitimate basis upon which to require ESPs to disclose confidential resource cost information in their IRP plans.

Second, the PD should be modified to ensure that an ESP and its customers enjoy the flexibility to develop the mix of supply resources and demand measures that best meets the customers' requirements, while meeting the State's resource procurement mandates. The Commission should remove language suggesting that the Commission will manage or control the procurement decisions of ESPs.

Finally, the Commission must decide whether parameters for central procurement of RA capacity (and other reliability/integration resources) will be addressed in this proceeding or in the RA proceeding. The Commission must coordinate its consideration of resource procurement issues, including the role of a "central procurement entity," in a single proceeding.

Proposed revised findings of fact and conclusions of law are set forth in Appendix A.

Respectfully submitted,



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APPENDIX A

PROPOSED REVISED FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Proposed Revised Findings of Fact (“FOF”):

1. Delete FOF No. 25 and replace with the following: “The bi-annual IRP process provides a snapshot of LSEs’ individual collective progress toward meeting the State’s 2030 GHG emission reduction goal. Identified deficiencies provide an opportunity for the Commission to send a market signal for additional procurement.

B. Proposed Revised Conclusions of Law (“COL”):

1. Delete COL No. 19 and replace with the following: “Any consideration of a ‘procurement track’ must be coordinated with consideration of a ‘central procurement entity’ in R.17-09-020 (RA). The Commission should not address centralized procurement of energy or capacity in multiple proceedings.”

2. Delete COL No. 20 and replace with the following: “The Commission should not substitute its own judgment regarding an ‘optimized resource portfolio’ for the choices made by individual LSEs to meet retail customer needs, as well as the State’s GHG emission goals and procurement mandates.”