



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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**COMMENTS OF CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE AND
SIERRA CLUB ON THE MARCH 18, 2019 PROPOSED DECISION ADOPTING
PREFERRED SYSTEM PORTFOLIO AND PLAN FOR THE 2017-2018 INTEGRATED
RESOURCE PLAN CYCLE**

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TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	1
II.	DISCUSSION	3
1.	The Study of Retirement and Retention of Natural Gas Facilities Should Consider Air Quality and Disadvantaged Communities.....	3
2.	The Procurement Track Should Focus on Ensuring Procurement Is Targeted to Phase-Out Our Reliance on Fossil Fuels.	5
3.	The Commission Should Commence the Procurement Track Immediately.....	6
4.	The Commission Should Clarify Enforcement Measures and Require Resubmittal of Altered Plans.	7
5.	The PD Should Be Amended to Include Reference to CEJA and Sierra Club’s Response to LSEs’ Motions to File IRPs Under Seal.	8
III.	CONCLUSION.....	8

TABLE OF AUTHORITIES

	Page(s)
 California Statutes	
Cal. Public Utilities Code § 399.11(e)(1)	4
Cal. Public Utilities Code § 399.13(a)(7)	3
Cal. Public Utilities Code § 399.13(a)(7)(A)	4
Cal. Public Utilities Code § 399.13(a)(7)(B)	4
Cal. Public Utilities Code § 454.52	4
 California Public Utilities Commission Decisions	
D.12-04-046, Decision on System Track 1 and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement (Apr. 12, 2012)	6

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In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the California Environmental Justice Alliance (“CEJA”) and the Sierra Club respectfully submit these comments on the March 18, 2019 Proposed Decision Adopting Preferred System Portfolio and Plan for the 2017-2018 Integrated Resource Plan Cycle (“Proposed Decision” or “PD”).

I. INTRODUCTION AND SUMMARY

Throughout this proceeding, CEJA and Sierra Club have advocated for enforceable concrete requirements to effectuate Senate Bill (“SB”) 350’s mandate to minimize air pollution with a priority for disadvantaged communities. We are therefore pleased that the Proposed Decision requires load serving entities (“LSEs”) that did not evaluate criteria pollutants in their plans to complete the analysis. Although we hope to see more requirements for analyzing and minimizing pollution in future cycles, CEJA and Sierra Club applaud the Commission’s decision to uphold and enforce the requirements that it clearly set forth in D.18-02-018.

CEJA and Sierra Club have also emphasized in this proceeding the importance of meeting the greenhouse gas (“GHG”) requirements established by the Commission and the California Air Resources Board (“CARB”). Specifically, we have advocated for using a portfolio that at least ensures GHG reduction requirements are met. The hybrid conforming

portfolio decidedly failed to meet these requirements. Thus, the PD correctly finds that the hybrid conforming portfolio should not be the basis of the preferred system plan because it does not meet GHG requirements.

CEJA and Sierra Club are also pleased to see that the Commission realizes its integral role in ensuring that the state as a whole meets GHG requirements in stating “the Commission’s portfolio aggregation and evaluation process, which relies on fulfillment of IRP filing requirements by LSEs, is the only process capable of assessing the overall needs of the CAISO grid and meeting the statewide GHG, reliability, and least-cost collectively.”¹ As part of that commitment, we believe that the Commission’s consideration and oversight of procurement of energy storage and other preferred resources to meet GHG requirements is crucial for ensuring that the state as the whole is on track to meet SB 32 requirements. This procurement process should begin immediately.

Thus, the majority of the PD is well-reasoned and based on reasonable interpretations of the Commission’s statutory authority. Nevertheless, we believe the PD should be altered to remedy five concerns. First, the Commission’s evaluation of retirement of natural gas resources should consider impacts to air quality and disadvantaged communities. The PD left out these core considerations in the list of factors that the Commission plans to evaluate in the procurement track. Second, we disagree with the Commission’s focus on retaining natural gas in the procurement track. This track should be used to ensure that the optimal preferred resources are being developed in the right places to start phasing out our reliance on natural gas. The Commission should ensure that California is not creating incentives for natural gas facilities to operate longer than necessary. Third, the Commission should immediately begin work on the

¹ PD, p.18.

procurement track because effective procurement is needed now and will take time to implement. There is no reason to delay this critical effort. Fourth, the Commission should clarify the enforcement measures, including penalties, it will take when IRPs do not meet the stated requirements and further clarify that LSEs must resubmit plans that are materially different than current planned procurement. Finally, we ask that the Commission make an editorial correction to include reference to CEJA and Sierra Club's response to LSEs' motions to seal portions of their IRPs. We discuss these points in more detail below, and in Appendix A we propose changes to the PD's findings of facts, conclusions of law, and orders.

II. DISCUSSION

1. The Study of Retirement and Retention of Natural Gas Facilities Should Consider Air Quality and Disadvantaged Communities.

The PD describes “the critical questions we face in ensuring adequate clear resources and reliability, at lowest cost through 2030.”² This list, however, fails to describe what CEJA and Sierra Club believe is a crucial issue: what impact a particular resource will have on air quality and disadvantaged communities? A decision of whether to retire or retain natural gas plants will impact the air pollution burden in surrounding communities.³ For this reason, any analysis of whether to retain or retire certain facilities should consider air quality and the associated health impacts of the decision.

Importantly, consideration of air quality and disadvantaged communities in procurement decisions is required under several statutory provisions. In particular, Section 399.13(a)(7) of the Public Utilities Code requires that utilities “shall give preference to renewable energy projects

² PD, p. 136.

³ See R.16-02-007. Opening Comments of the California Environmental Justice Alliance and Sierra Club on the Proposed Reference Plan and Related Commission Policy Actions (Oct. 26, 2017), pp. 8-15.

that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases” when soliciting California-based renewable energy projects.⁴ The Legislature has further recognized the need for utilities to “actively seek bids for resources that are not gas-fired units located in communities that suffer from cumulative pollution burdens...[and] give preference to resources that are not gas-fired generating units located in those communities.”⁵ The Legislature also recognized the need for renewable energy and GHG requirements to help protect air quality and public health in disadvantaged communities. When passing the Renewables Portfolio Standard (“RPS”), the Legislature specifically found that “[s]upplying electricity to California [] customers that is generated by eligible renewable energy resources is necessary to improve California’s air quality and public health, particularly in disadvantaged communities.”⁶ The Legislature further prioritized minimizing air pollution in disadvantaged communities in the integrated resource planning process.⁷

Consistent with these statutory requirements, the Commission and LSEs must consider the impacts of energy procurement on disadvantaged communities, and any procurement analysis should necessarily include a thorough evaluation of the air quality benefits inherent in the retirement of natural gas plants and how those benefits can positively impact communities that are disproportionately impacted by harmful pollution.

⁴ Cal. Public Utilities Code § 399.13(a)(7)(A). In recent amendments to the RPS statute, the Legislature affirmed that § 399.13(a)(7)(A) “applies to all procurement of eligible renewable energy resources . . . , whether the procurement occur through all-source requests for offers, . . . or other procurement mechanisms.” § 399.13(a)(7)(B). The Legislature pronounced that “[t]his subparagraph is declaratory of existing law.” *Id.*

⁵ See A.B. 1937 (2016).

⁶ Cal. Public Utilities Code § 399.11(e)(1).

⁷ Cal. Public Utilities Code § 454.52.

2. The Procurement Track Should Focus on Ensuring Procurement Is Targeted to Phase-Out Our Reliance on Fossil Fuels.

In several parts of the PD, the Commission suggests that natural gas is essential for reliability and appears to focus on retaining rather than retiring natural gas facilities.⁸ CEJA and Sierra Club strongly disagree with this apparent suggestion that a significant amount of natural gas should be kept online. The Commission must put California on track to replace natural gas capacity with clean fossil-free alternatives. As we have stated in earlier comments, it is inappropriate to assume that a significant capacity of existing plants should continue to operate in the long-term to fulfill capacity and reliability needs given the state's ambitious climate and clean energy goals.⁹ Rather, the Commission should continue to develop and prioritize carbon-free resources that can provide reliability and plan to optimize these resources to phase out natural gas.

The Commission has already acknowledged this pressing need to retire natural gas generation and procure preferred resources. For example, in Resolution E-4909, the Commission authorized PG&E to procure energy storage and local renewable resources to replace the need for natural gas capacity. This important authorization should serve as guiding precedent for the Commission's future procurement direction. Given the mandate of SB 100, we strongly urge the Commission to clarify that this proceeding should focus on optimizing the procurement of carbon-free resources to reduce the state's reliance on gas and retire natural gas facilities as soon as possible. To do this, the Commission should prioritize an analysis that ascertains how energy storage and preferred resources can be procured to phase out natural gas

⁸ See, e.g., PD, p.129.

⁹ CEJA, Sierra Club and EDF Comments on the Proposed Scenarios for the 2019-2020 Reference System Portfolio (March 5, 2019), p. 10.

facilities, similar to Resolution E-4909. This analysis should directly inform the procurement track, which, as we discuss below, should begin immediately.

Finally, the Commission should look to D.12-04-046, its April 19, 2012 decision in the Long-Term Procurement Plan proceeding, and in particular its treatment of once-through cooling (“OTC”) in that decision.¹⁰ In pertinent part, the Commission required consideration of how to balance procurement needs with the OTC policy so as not incentivize the operation of OTC facilities longer than necessary. In a similar fashion, the Commission should carefully review long-term natural gas contracts in this proceeding to ensure that they do not incentivize the operation of fossil fuel facilities longer than necessary—a perverse outcome that would thwart California’s ability to meet SB 100 mandates and other climate and clean energy goals.

3. The Commission Should Commence the Procurement Track Immediately

We applaud the PD’s conclusion that a “procurement track” is warranted to “explore options for facilitating procurement of some existing and some new types of resources that are determined to be necessary for maintaining system reliability and/or to facilitate renewable integration.”¹¹ We urge the Commission to begin this critical procurement process immediately. Procurement decisions that maintain reliability, facilitate renewable integration, and account for air quality and disadvantaged community impacts are complicated and require time, resources, and public input. By commencing now, the Commission can ensure it has the time it needs to order effective procurement that keeps California on track for meeting its GHG mandates, while also ensuring the decisions receive public input and properly account for air quality impacts in disadvantaged communities. Planning today will help ensure cost-effectiveness over the long-

¹⁰ CPUC, D.12-04-046, Decision on System Track 1 and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement (Apr. 12, 2012), pp. 17-27.

¹¹ PD, p. 4.

term because planning can evaluate the optimal locations for preferred resource procurement to start reducing our reliance on fossil fuel facilities. Indeed, there is no reason to wait for the next IRP cycle to begin the procurement track. With the information currently available, the Commission can begin the process now and maximize the many benefits that direction from a procurement track can provide.

4. The Commission Should Clarify Enforcement Measures and Require Resubmittal of Altered Plans.

As stated above, the Commission rightfully rejected the IRPs that did not meet the Commission's requirements and correctly noted that Commercial Energy of California, which did not even submit a plan, was in error.¹² The Commission should take the additional step of clarifying that it will issue penalties on the non-compliant LSEs and take any other appropriate enforcement measures, by, at the very least, penalizing Commercial Energy of California if it does not submit a plan by mid-June of this year. By applying and enforcing the rules that govern this proceeding, the Commission will send a clear signal to LSEs that IRPs are not optional and must meet certain standards and that all LSEs must meet the requirements that the Commission has imposed. This signal will also ensure that LSEs dedicate the times and resources necessary to submit thorough and well-considered plans that they actually intend to implement.

In a similar vein, the Commission should require LSEs that materially stray from their IRPs to resubmit plans for approval that reflect the LSE's actual planned procurement. Such a resubmittal requirement will help ensure that the plans are implemented, reflect actual procurement, and enable the Commission and the state to use them for planning purposes. Further, resubmittal of plans will enable communities to evaluate the plans' impacts—including

¹² PD, pp. 21-22.

on air quality in disadvantaged communities—and to assess whether the plans comply with SB 350 and other mandates.

5. The PD Should Be Amended to Include Reference to CEJA and Sierra Club’s Response to LSEs’ Motions to File Their IRPs Under Seal.

On August 30, 2018, CEJA and Sierra Club filed an extensive response to various LSEs’ motions to file portions of their IRPs under seal.¹³ Unfortunately, the PD mistakenly omits reference to this response.¹⁴ We therefore respectfully request that the Commission correct this error and add CEJA and Sierra Club to the list of groups that filed responses to the LSEs’ motions to file IRP information under seal.¹⁵

III. CONCLUSION

For the foregoing reasons, Sierra Club and CEJA urge the Commission to incorporate the above suggestions into the Proposed Decision as well as the changes suggested in Appendix A.

Dated: April 8, 2019

Respectfully Submitted,

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¹³ See CEJA and Sierra Club Response to Motions to Seal Portions of IRPs (Aug. 30, 2018).

¹⁴ PD, p. 7 (stating that “[o]n August 30, 2018, PG&E and Protect Our Communities Foundation (POC) filed responses to the motions to file under seal” and failing to mention CEJA and Sierra Club’s joint response).

¹⁵ CEJA, Sierra Club, and EDF also submitted detailed joint comments on the future treatment of confidential information on November 16, 2018 and November 30, 2018.

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APPENDIX A

CEJA and Sierra Club's Proposed Changes to Findings, Conclusions, and Orders

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Findings of Fact

13. The Commission's primary responsibility, in implementing the provisions of Public Utilities Code Sections 454.51 and 454.52, is to ensure an electric resource portfolio, for the aggregated LSEs within its purview, that meets the state's GHG emissions, reliability, ~~and~~ cost requirements, and the requirement to minimize localized air pollutants with an early priority for disadvantaged communities, as well as other state goals.

~~31. Renewable and storage resources alone are not sufficient, at present, based on existing technologies and costs, to provide enough renewable integration services to result in electric system reliability at the system level~~

~~32. Currently, all non-renewable resources available on the CAISO system are needed for renewable integration.~~

33. Without intervention, ~~s~~Some natural gas generation resources may ~~will~~ still be needed to preserve system reliability in 2030. The Commission is in the process of ~~continuing to~~ studying how to ensure these fossil-fuel dependent generators are not needed in 2030. the likely amount of such resources needed to remain online.

Conclusions of Law

7. The Commission should require the entities that did not provide adequate information about criteria pollutants associated with serving their load to refile their individual IRPs via Tier 2 Advice Letter by no later than June 14, 2019. The Commission should require entities that failed to file any integrated resource plan to file their plans by no later than June 14, 2019.

15. The Commission should continue to examine GHG emissions, reliability, and cost issues as well as criteria pollutants and impacts on disadvantaged communities on an integrated basis in the IRP process.

19. The Commission should focus a procurement track of the IRP proceeding on the following types of resources: diverse renewable resources in the near term at levels sufficient to reach the 2030 optimized portfolio, in coordination with the RPS program; ~~near-term resources with load following and hourly or intra-hour renewable integration capabilities~~ procuring resources to ensure that fossil-fuel generation is no longer needed ~~existing natural gas resources~~; and long-duration (8 hour) storage resources. This track should examine resource types as well as the optimal locations for procuring those resources.

ORDER

11. The Commission hereby institutes a procurement track that will begin immediately, alongside the planning activities in this proceeding, in order to evaluate the need for the following types of resources: diverse renewable resources in the near term at levels sufficient to reach the 2030 optimized portfolio, in coordination with the RPS program; ~~near-term resources~~

~~with load following and hourly or intra-hour renewable integration capabilities; existing gas resources; procuring resources to ensure fossil-fueled generation is no longer needed; and long-duration (eight hour) storage resources. This track will examine resource types as well as the optimal locations for procuring those resources.~~

12. The Commission hereby grants citation authority so that entities failing to provide any documentation will face monetary sanctions. Any entities that do not file the documentation required by this Decision by June 14, 2019 will face monetary sanctions.

13. The Commission hereby orders that any LSE that plans procurement that is materially different from its submitted integrated resource plans must resubmit for approval new plans that reflect the LSE's actual planned procurement.