

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

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

Rulemaking 10-05-006

**REPLY COMMENTS OF THE LARGE-SCALE SOLAR ASSOCIATION (“LSA”)
ON PROPOSED DECISION APPROVING
MODIFIED BUNDLED PROCUREMENT PLANS**

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”), the Large-scale Solar Association (“LSA”) hereby submits these reply comments to address problematic statements contained in the opening comments of San Diego Gas & Electric Company (“SDG&E”) filed on November 30, 2011 concerning the proposed *Decision Approving Modified Bundled Procurement Plans*, issued November 11, 2011 in the above-captioned docket (the “Proposed Decision” or “PD”).

In its opening comments, SDG&E opposes the PD’s adoption of a cap for Pacific Gas and Electric Company (“PG&E”) and SDG&E’s bundled procurement plans which would allow them, without reasonableness review, to “recover in rates procurement costs up to the point these costs result in no more than 10% system average rate increase over a rolling 18-month period.” (PD, pp. 14-15). SDG&E notes that it is “subject to certain mandatory renewable energy procurement goals” as well as “mandated procurement goals for EE, DR, CHP and RAM.”¹ SDG&E then states:

¹ Comments of San Diego Gas & Electric Company (U 902 E) On Proposed Decision Approving Modified Bundled Procurement Plans dated Nov. 20, 2011, p. 9 (“SDG&E Comments”).

Imposition of the proposed cost cap may force SDG&E to discontinue procurement of one or more of these products well short of mandated targets, in the event SDG&E's overall cost exceed the 10% system average rate cost cap, rather than face the prospect of after-the-fact disallowance.²

LSA strongly disputes SDG&E's assertion that the "prospect" of post hoc reasonableness review would justify disregarding its RPS obligations or responsibilities under other legislative and Commission mandates. Nothing in the legislation or Commission decisions establishing SDG&E's renewable energy procurement obligations provides such an excuse, nor does LSA read the PD itself to do so. To forestall any disruption in mandated preferred resource procurement activities, if the final decision retains the cost cap, it should state explicitly that the possibility of after-the-fact disallowance does not relieve the utilities of their obligations under the renewables portfolio standard ("RPS") statute or other legislative and Commission mandates regarding preferred resources.

However, SDG&E's candid discussion of the actions it might take in response to the cost cap highlights the difficulties ahead in implementing the cap and the opportunity for it to create perverse incentives undermining achievement of preferred resource goals. SDG&E, PG&E and Jan Reid raise numerous questions about the procurement activities covered by the cap and the manner in which it would be calculated.³ These questions and others must be answered before the rate cap could become effective, but the PD provides neither the answers nor a process for obtaining them. LSA is concerned that the uncertainties and the considerable time that would likely be required to resolve them with appropriate public review could disrupt utility procurement of preferred resources and unsettle renewable energy markets.

LSA is also concerned that the cost cap could create incentives for PG&E and SDG&E to thwart or distort preferred resource procurement in ways that are more subtle and less easy to detect than the outright program suspension that SDG&E flagged in its comments. While the PD suggests the cap will provide ample headroom, PG&E and Reid describe circumstances under

² *Id.*

³ SDG&E Comments, pp. 8-9; Opening Comments Of Pacific Gas And Electric Company (U 39 E) On Proposed Decision Approving Modified Bundled Procurement Plans dated Nov. 30, 2011, p. 4 ("PG&E Comments"); R.10-05-006 (LTPP) PD Comments Of L. Jan Reid dated Nov. 30, 2011, p. 9 ("Reid Comments").

which the cap could be exceeded.⁴ The cost cap could motivate PG&E and SDG&E to manage procurement costs narrowly to meet the rolling 18 month cost target rather than to achieve the lowest costs as considered over the life of a contract or resource, such as deferring or back-loading contract payments even if the overall cost to customers is higher. It could discourage equal regard for procurement-related costs such as transmission and distribution reinforcements, which are outside the cost cap. The cap could encourage PG&E and SDG&E to manipulate the timing of resource additions based on the rolling 18-month target rather than on their commitments to suppliers or the best interests of their customers.

Further, as pointed out by some of the comments, the scope of the cost cap and its interaction with the current RPS program approach of advance reasonableness review of RPS power purchase agreements is not clear.⁵ As noted above, SDG&E's comments question whether the cost cap applies to renewables procurement directly.⁶ Applying this cost cap to renewables procurement could have intended results by producing a heavier focus on "least cost" and a disregard for "best fit" and project viability in selecting new procurement projects and resulting in contracts with high failure rates and poor fit with system needs. The appropriate place to costs for renewables procurements is the current RPS proceeding, R.11-05-005, where Commission will be considering a cost containment mechanism for RPS procurement and providing an opportunity for stakeholder input.

Thus, rather than adopt the cost cap and confront its myriad implementation challenges, the Commission should accept the alternative that SDG&E and PG&E have proposed of modifying their bundled procurement plans to establish position limits based on the standardized planning assumptions as modified by the final decision.⁷ In their opening comments, Sierra Club and Pacific Environment presented similar proposals for quantitative procurement limits based on the standardized planning assumptions.⁸ No party provided affirmative support for the cost cap. PG&E, SDG&E and SCE also asserted that the cost cap is inconsistent with Public Utilities

⁴ See Proposed Decision, p. 14; PG&E Comments, p. 5; Reid Comments, pp. 9-10.

⁵ SDG&E Comments, pp. 8-9; PG&E Comments, p. 4; Reid Comments, pp. 9-10.

⁶ SDG&E Comments, pp. 8-9.

⁷ SDG&E Comments, p. 11; PG&E Comments, p. 7.

⁸ Pacific Environment's Comments On The Proposed Track II Decision Of ALJ Allen dated Nov. 30, 2011, p. 4; Comments Of Sierra Club California On Proposed Decision Approving Modified Procurement Plans dated Nov. 30, 2011, p. 5.

Code section 454.5 and lacks evidentiary support.⁹ Adopting quantitative position limits in lieu of a cost cap would better address the deficiencies with the PG&E and SDG&E bundled procurement plans identified in the PD; create greater consistency in the three utilities' procurement plans and processes; and avoid the implementation challenges, problematic incentives, legal questions and record deficiencies associated with the cost cap.

Accordingly, LSA urges the Commission to reject the cost cap and instead require PG&E and SDG&E to adopt quantitative position limits if the Commission determines the deficiencies in their bundled procurement as identified in the PD require remedy.

Respectfully submitted,

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⁹ PG&E Comments, pp. 3, 5; SDG&E Comments, pp. 5-6, 9; Opening Comments Of Southern California Edison Company (U 338-E) On Proposed Decision Of Administrative Law Judge Peter Allen (Public Version) dated Nov. 30, 2011, pp. 8-9.