

**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  
(Filed May 7, 2020)

**THE PROTECT OUR COMMUNITIES FOUNDATION REPLY COMMENTS ON THE  
PROPOSED DECISION AND ALTERNATIVE PROPOSED DECISION REQUIRING  
PROCUREMENT TO ADDRESS MID-TERM RELIABILITY (2023-2026)**

Tyson Siegele  
Energy Analyst

Protect Our Communities Foundation  
4452 Park Boulevard, #309  
San Diego, CA 92116  
(619) 693-4788  
Tyson@ProtectOurCommunities.org

Dated: June 15, 2021

## TABLE OF CONTENTS

I.	Introduction.....	1
II.	San Diego Community Power must be allowed to procure its own resources. ....	1
III.	The PDs violate multiple sections of the Public Utilities Code by requiring procurement of fossil-fueled resources.....	2
IV.	The PDs must confirm energy replacement in addition to capacity replacement for Diablo Canyon. ....	3
V.	The PDs’ definition of dispatchable hours must be clarified.....	3
VI.	The Commission should maintain procurement terms of 10 years or longer for clean energy resources and storage and reject fossil-fueled capacity procurement.....	4
VII.	Conclusion .....	5

**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  
(Filed May 7, 2020)

**THE PROTECT OUR COMMUNITIES FOUNDATION REPLY COMMENTS ON THE  
PROPOSED DECISION AND ALTERNATIVE PROPOSED DECISION REQUIRING  
PROCUREMENT TO ADDRESS MID-TERM RELIABILITY (2023-2026)**

The Protect Our Communities Foundation (“PCF”) provides these reply comments on *The Proposed Decision Requiring Procurement To Address Mid-Term Reliability (2023-2026)* and *The Alternative Proposed Decision Requiring Procurement To Address Mid-Term Reliability (2023-2026)* (“PDs”).<sup>1</sup> These comments are timely filed pursuant to Rule 14.3.

**I. Introduction**

PCF agrees with parties that recommend the PDs be changed to (1) allow San Diego Community Power to self-procure (2) reject fossil-fueled procurement and eliminate resource shuffling (3) clarify that the Diablo Canyon replacement resources must replace capacity and energy produced by Diablo Canyon (4) clarify dispatchability hours of resources. Finally, the PCF disagrees with parties that oppose limitations to fossil-fuel generator contract terms.

**II. San Diego Community Power must be allowed to procure its own resources.**

PCF agrees with San Diego Community Power (“SDCP”) that the PDs err in directing SDG&E to procure resources for SDCP customers. SDCP noted that the PDs violate AB 1584.<sup>2</sup> PCF agrees and further notes that the failure of the PDs to allocate procurement to SDCP violates § 454.51(d) and § 380(b)(5) which require the Commission to allow CCAs to procure for their own customers. For instance, Section 380(b)(5) states that the Commission shall “Maximize the ability of community choice aggregators to determine the generation resources used to serve

---

<sup>1</sup> R.20-05-003, *Proposed Decision Requiring Procurement To Address Mid-Term Reliability (2023-2026)* (“PD”), (May 21, 2021); R.20-05-003, *Alternate Proposed Decision Requiring Procurement To Address Mid-Term Reliability (2023-2026)* (“PD”), (May 21, 2021);

<sup>2</sup> SDCP p. 9.

their customers.”<sup>3</sup> The PDs separate out SDCP and other CCAs launching in 2021 and treat them differently than all other CCAs. PCF requests that the Commission revise the PDs to state clearly, in accordance with applicable statutory mandates, that SDCP’s procurement allocations shall be based on 2022 load projections instead of 2021 load projections.

### **III. The PDs violate multiple sections of the Public Utilities Code<sup>4</sup> by requiring procurement of fossil-fueled resources.**

Many parties opposed authorization of and required procurement of fossil fuel resources including The Utility Reform Network (“TURN”), the California Environmental Justice Alliance (“CEJA”), Sierra Club, Defenders of Wildlife (“DOW”), the Union of Concerned Scientists (“UCS”), the Environmental Defense Fund (“EDF”), the Natural Resources Defense Council (“NRDC”), Vote Solar (“VS”).<sup>5</sup> These parties’ positions on fossil-fueled procurement generally aligns with PCF’s position in opening comments which stated that the procurement of fossil fuel resources violates multiple statutory requirements.<sup>6</sup> Thus the PDs should be revised to remove all fossil-fuel generation procurement authorization.

None of the parties that accepted the PDs’ selection of fossil-fueled resources discussed how the PDs’ procurement orders could avoid violating § 454.51(a), § 454.51(d), and § 380(b)(5) – statutory requirements discussed in PCF’s opening comments. Additionally, PCF agrees with the Public Advocates Office’s (“Cal Advocates”) concern that the PDs allow resource shuffling. Cal Advocates states that “[w]ithout establishing procurement guidelines for out-of-state resources to ensure compliance with SB 100 prohibitions on resource shuffling and increasing emissions elsewhere on the western grid, the PD and APD fail to enact their own intent and fulfill statutory obligations.”<sup>7</sup> PCF agrees that unless the PDs prohibit resource shuffling they will violate § 454.53(a).

Cal Advocates recommended that the PDs should be revised to state that LSEs must “include a showing that the out-of-state resource(s) associated with the imports do not result in

---

<sup>3</sup> § 380(b)(5).

<sup>4</sup> All further references to code are to the Public Utilities Code, unless otherwise indicated.

<sup>5</sup> TURN p. 5, CEJA, Sierra Club, DOW Comments, p 3-7; UCS Comments, p. 3-4; EDF, p. 7; NRDC p. 2; VS, p. 3-4;

<sup>6</sup> Cal Advocates Comments, p. 9.

<sup>7</sup> *Ibid.*

resource shuffling or the increase of emissions elsewhere in the western grid.”<sup>8</sup> PCF disagrees that a such general language requiring “a showing” would meet the statutory requirement to avoid resource shuffling.

PCF recommends instead that the Commission eliminate resource shuffling by only allowing contracts with newly developed renewable resources and rejecting new contracts for fossil-fueled resources. Using that approach would eliminate the possibility of resource shuffling without requiring other documents. No other method will effectively eliminate resource shuffling.

#### **IV. The PDs must confirm energy replacement in addition to capacity replacement for Diablo Canyon.**

PCF agrees with UCS’s recommendation that full energy production of Diablo Canyon must be replaced, not just the generation capacity.<sup>9</sup> Section 712.7.(b) states that “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.”<sup>10</sup> To avoid increased emissions, 100% of Diablo Canyon energy production must be replaced. Further, the decision should specifically call for resources to achieve the energy production replacement in addition to the other capacity requirements and generating hours already defined within the PDs. PCF notes that the assumption that LSEs have been procuring to meet energy needed after Diablo Canyon retirement is not enough to meet the statutory requirement for Diablo Canyon replacement. The Commission must specifically earmark energy replacement for Diablo Canyon separately from other energy procurement.

#### **V. The PDs’ definition of dispatchable hours must be clarified.**

PCF agrees with CalCCA that the PDs defined dispatchable hours differently than how the Commission defines such hours in the RA proceeding. Thus, the PDs’ definition of dispatchable hours should be clarified.<sup>11</sup> The PDs used a variety of language that could be interpreted in different ways to describe the hours during which dispatchable resources must be available. For instance, in one passage, the PDs state that dispatchable means the resource must

---

<sup>8</sup> *Id.*, p. 10.

<sup>9</sup> UCS Comments, p.

<sup>10</sup> Public Utilities Code § 712.7 (b).

<sup>11</sup> CalCCA Comments, p. 7-8.

be available “during hours 17 and 22 daily” which could be interpreted to mean just two hours a day.<sup>12</sup> However, based on the full text of the PDs, the PDs can also be interpreted to mean from 5:00 p.m. to 10:00 p.m. – a five-hour window. PCF interprets the PDs’ language differently than CalCCA’s understanding. CalCCA stated that it believes that the PDs could be interpreted to mean that the resource must be available from hour ending (“HE”) 17 through 22, equivalent to 4:00 p.m. to 10 p.m. – a six-hour window.<sup>13</sup> Meanwhile a 4-9 window aligns with the RA proceedings Availability Assessment Hours (“AAH”). Because the Commission has repeatedly stressed that the net peak window continues to move later in the day, the PDs possibly intended to shift the window later than the RA proceedings’ Availability Assessment Hours. Regardless, PCF recommends that the PDs clarify the intended dispatch hours.

**VI. The Commission should maintain procurement terms of 10 years or longer for clean energy resources and storage and reject fossil-fueled capacity procurement.**

Regarding fossil fuel procurement, SDG&E states that “A minimum contract length would be detrimental in some circumstances, while a maximum contract length will be detrimental in all circumstances.”<sup>14</sup> In opening comments PCF detailed the overwhelming evidence showing that clean energy resources are cleaner, cheaper, and more reliable than fossil-fueled resources. Thus, the Commission should not require any fossil-fueled procurement because doing so would violate numerous code requirements.

However, if the Commission continues to require additional fossil-fueled resources for the 2020s, then it must set a maximum contract length of 10 years. Failure to do so invites fossil fuel companies like SDG&E to sign contracts for anywhere between 20 and 40 years, which would harm ratepayers by increasing rates, GHG emissions, and particulate pollution. As PCF noted in opening comments, a wide variety of analysts have forecasted that fossil fuel peaking generation will be uneconomic by 2027.<sup>15</sup> SDG&E claimed in its reply to PCF’s protest of AL-3666-E<sup>16</sup> that no gas-fired generation responded to the solicitation despite SDG&E reaching out

---

<sup>12</sup> PD, p. 35.

<sup>13</sup> CalCCA, p. 8.

<sup>14</sup> SDG&E Comments, p. 11.

<sup>15</sup> PCF PD Comments, p. 5.

<sup>16</sup> SDG&E Reply to Protests of SDG&E’s AL-3666-E, (January 26, 2021) p. 3.

to “over 6,000” possible bidder participants.<sup>17</sup> Based on SDG&E previous remarks, the Commission can conclude that all 6,000 participants for SDG&E’s procurement determined that *existing* fossil fuel resources could not compete with renewables plus storage. *New* resources that must recoup 100% of their capital costs would not be nearly as competitive as the existing fossil-fueled generators that were eligible for bidding into the AL-3666-E procurement.

Thus, when SDG&E requests that the Commission allow it to run solicitations with uncapped fossil fuel procurement, SDG&E is asking the Commission to allow it to lock in California ratepayers to an unknown term length of expensive and uncompetitive fossil-fueled generation. SDG&E already charges its customers more than any other comparably-sized investor owned utility in the continental U.S.<sup>18</sup> Thus, the Commission should reject SDG&E’s request to procure *even more* uncompetitive and polluting generation types.

## VII. Conclusion

For the reasons stated above, the Commission should (1) allow San Diego Community Power to self-procure, (2) reject fossil-fueled procurement and eliminate resource shuffling, (3) clarify that the Diablo Canyon replacement resources must replace capacity and energy produced by Diablo Canyon, (4) clarify dispatchability hours of resources, and (5) reject SDG&E’s attempt to gain a blank check for fossil-fuel generation procurement.

Respectfully submitted,

/s/ Tyson Siegele

---

Tyson Siegele - Energy Analyst  
The Protect Our Communities Foundation  
4452 Park Boulevard, #309  
San Diego, CA 92116  
(619) 693-4788  
Tyson@ProtectOurCommunities.org

Dated: June 15, 2021

---

<sup>17</sup> SDG&E AL-3666-E, (December 30, 2021) p. 4.

<sup>18</sup> U.S. Energy Information Administration, 2019 Average Residential Retail Price by State and Utility, (October 2, 2020) Table 6, (Data filtered for investor owned utilities with over 100,000 customers, excluding Alaska and Hawaii.) see [https://www.eia.gov/electricity/sales\\_revenue\\_price/](https://www.eia.gov/electricity/sales_revenue_price/).