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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric
Company (U902E) for Authority to
Partially Fill the Local Capacity
Requirement Need Identified in
D.14-03-004 and Enter into a Purchase
Power Tolling Agreement with Carlsbad
Energy Center, LLC.

Application 14-07-009
(Filed July 21, 2014)

**THE OFFICE OF RATEPAYER ADVOCATES' APPLICATION
FOR REHEARING OF DECISION 15-05-051**

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I. INTRODUCTION

On May 29, 2015 the California Public Utilities Commission (Commission) approved the *Decision Conditionally Approving San Diego Gas & Electric Company's [SDG&E] Application for Authority to Enter into Purchase Power Tolling Agreement [PPTA] with Carlsbad Energy Center, LLC* (Carlsbad decision or D.15-05-051). The Office of Ratepayer Advocates (ORA) submits this Application for Rehearing of D.15-05-051, which is timely filed pursuant to Section 1731(b) of the California Public Utilities Code and Rule 16.1 of the Commission's Rules of Practices and Procedure.

The Carlsbad decision conditionally approves SDG&E's application for a PPTA with the Carlsbad Energy Center, LLC (Carlsbad), subject to the amendment of the Carlsbad PPTA to reduce the contract capacity from 600 megawatts (MW) to 500 MW, while maintaining "the same *per unit* price, and *other terms* and conditions..."¹ Procurement of 500 MW of gas-fired capacity via a bilaterally negotiated PPTA flies in the face of both California's Loading Order² and the Commission's policy favoring the competitive procurement of resources.³ The Carlsbad decision claims that SDG&E must procure at least 500 MW of capacity by 2018, or risk delaying the timely retirement of the Encina Power Plant (Encina) in compliance with once-through cooling (OTC) regulations,⁴ and/or creating a reliability gap when Encina retires.⁵ The Carlsbad decision asserts that the need to address these risks outweighs "the benefit of a competitive procurement process and its

¹ D.15-05-051, p. 2. SDG&E's residual procurement authority resulting from the amendment of the Carlsbad PPTA must be filled with preferred resources or energy storage. D.15-05-051, p. 2.

² California's Loading Order requires the procurement of energy efficiency and other demand-side resources first, then renewable resources, and finally, clean conventional generation. D.14-03-004, Conclusion of Law 3, p. 135.

³ D.15-05-051, p. 10.

⁴ Section 316(b) of the Clean Water Act (33 U.S.C. § 1326(b)) requires that the location, design, construction and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. To implement this statute, in 2010 the State Water Resources Control Board adopted the "Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling."

⁵ D.15-05-051, pp. 18-19.

potential for procuring additional preferred resources⁶...⁷. Yet as the March 6, 2015 *Proposed Decision Denying without Prejudice San Diego Gas & Electric Company's Application for Authority to Enter into Purchase Power Tolling Agreement with Carlsbad Energy Center, LLC* (PD) recognizes, earlier Commission decisions already accounted for the need to replace the Encina Power Plant.⁸ Moreover, as Commissioner Sandoval's dissent noted, "[t]he issue of any asserted need to take additional steps to address OTC retirement, including Encina's retirement, is not within the scope of the Carlsbad proceeding, nor is it supported by the authorization in" D.14-03-004, *Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generation Stations* (Track 4 decision).⁹

Next, the Carlsbad decision directs SDG&E to investigate the feasibility and cost effectiveness of clutch technology that would allow the Carlsbad plant to produce reactive support when it is not producing power for the grid.¹⁰ The need for reactive power was not an issue within the scope of the proceeding. In fact, the language directing SDG&E to investigate the feasibility and cost-effectiveness of clutch technology in order to provide reactive power emerged for the first time in the April 6, 2015 *Alternate Proposed Decision Conditionally Approving San Diego Gas & Electric Company's Application for Authority to Enter into Purchase Power Tolling Agreement with Carlsbad Energy Center, LLC* (APD), after the record was closed

Finally, the Carlsbad decision incorrectly lists ORA as supporting an extension of the deadline for Encina to comply with OTC regulations.

As explained in Section III below, the Commission should grant rehearing to issue a new decision that:

- is consistent with the procurement authority granted in prior Commission decisions and the Commission's procurement planning process (Section III A);

⁶ "Preferred" resources such as energy efficiency, demand response, and renewable resources are higher than conventional gas-fired generation in California's Loading Order.

⁷ D.15-05-051, p. 14.

⁸ PD, pp. 14-15 ("In determining SDG&E's LCR need for the planning horizon 2011 to 2020, the Commission carefully considered and accounted for the anticipated retirement of the Encina OTC units.... Shortly thereafter, the Commission authorized SDG&E to enter into a PPTA with the Pio Pico Energy Center to meet this authorized need and, in so doing, rejected efforts to revisit its previous need determination.")

⁹ D.15-05-051, Commissioner Sandoval dissent, p. 2.

¹⁰ D.15-05-051, pp. 21-22.

- complies with the Commission’s obligation to follow its own procedural rules regarding issues that may properly be considered during a proceeding (Sections III B and III C);
- complies with the Commission’s obligation pursuant to Section 1708 of the Public Utilities Code to provide notice to parties in advance of rescinding, altering, or amending a prior decision (Section III A and III C);
- is supported by findings of fact (Section III C); and
- corrects two errors, including listing ORA as one of the parties that supports the extension of the deadline for Encina to comply with OTC regulations (Section III D).

II. BACKGROUND

The Commission through its long-term procurement planning (LTPP) process and related proceedings has been planning to meet the capacity shortfall resulting from closure of power plants that rely on once-through cooling since 2010, the same year that the State Water Resources Control Board adopted California’s OTC policy. Rulemaking (R.) 10-05-006 (2010 LTPP proceeding) included the “need for replacement generation infrastructure to eliminate reliance on power plants using once through-cooling (OTC)”¹¹ as one of the issues in the proceeding. D.12-04-066, the 2010 LTPP proceeding’s *Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement* ultimately concluded that “in looking at the whole record, it would be reasonable to find that there is no need for additional generation by 2020 at this time.”¹²

During Track 1 of the 2012 LTPP proceeding, the Commission considered Southern California Edison Company’s (SCE) need to replace OTC capacity and authorized SCE to procure between 1400 to 1800 MW.¹³ The Commission separately considered SDG&E’s OTC needs as submitted in Application (A.) 11-05-023, and concluded that it was “reasonable to authorize SDG&E to procure up to 298 MW of local generation capacity to come on-line beginning in 2018, as coordinated with the anticipated retirement of once-through cooling generation units”¹⁴ The Commission in D.14-02-016 authorized SDG&E to enter into a 300 MW PPTA with the Pio Pico

¹¹ Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans, R.10-06-010, May 13, 2010, p. 9.

¹² D.12-04-066, p. 10.

¹³ D.13-02-015, Ordering Paragraph 1, p. 130.

¹⁴ D.13-03-029, Conclusion of Law 8, pp. 25-26.

Energy Center, consistent with the Commission’s “assumption that the Encina once-through cooling generation units would retire in 2018.”¹⁵

After authorizing SCE and SDG&E to procure additional capacity to replace plants that needed to retire in compliance with OTC regulations, the Commission initiated Track 4 of the 2012 LTPP proceeding on May 21, 2013 to “consider the local reliability impacts of a potential long-term outage at the San Onofre Nuclear Power Station (SONGS)...”¹⁶ Track 4 evaluated the need for additional procurement in the SONGS study area¹⁷ due to the unexpected early retirement of SONGS. SDG&E’s Track 4 testimony, which assumed the retirement of Encina,¹⁸ requested that the Commission authorize procurement of between 500 and 550 MW in an all-source request for offers (RFO)¹⁹ in order to address the local capacity reliability (LCR) need in its service area by 2022.²⁰ Nowhere in its Track 4 testimony did SDG&E claim the need to procure additional resources by 2018 to allow Encina to retire.

The California Independent System Operator Corporation’s (CAISO) Track 4 Testimony found a residual need in the SONGS study area of 1820 MW in 2018, comprised of a 920 MW residual need in the San Diego area and a 900 MW need in the Los Angeles Basin²¹ and a residual need ranging from 4507 to 4602 MW in 2022.²² Despite the CAISO’s residual need determinations for 2018 and 2022, the CAISO initially recommended that the Commission wait until the completion of more studies before authorizing additional resource procurement.²³ While the CAISO subsequently revised its position to support SDG&E’s request that the Commission authorize

¹⁵ D.14-02-016, p. 5, citing D.13-03-029.

¹⁶ Revised Scoping Ruling and Memo of the Assigned Commissioner and Administrative Law Judge, issued May 21, 2013 in R.12-03-014, p. 4.

¹⁷ The SONGS study area was comprised of all of the SDG&E’s territory and the Los Angeles Basin portion of SCE’s service territory. D.14-03-004, p. 9.

¹⁸ Exhibit (Ex.) 18, Prepared Track 4 Direct Testimony of San Diego Gas & Electric Company, Robert Anderson in R.12-03-014, served August 26, 2013, p. 8:13.

¹⁹ Ex. 18, p. 5:1-2.

²⁰ Ex. 18, p. 1:8-9.

²¹ Ex. 31, Track 4 Testimony of Robert Sparks on Behalf of the California Independent System Operator Corporation, served August 5, 2013 in R.12-03-014, Table 11, p. 23.

²² Ex. 31, Table 13, p. 26.

²³ Ex. 31, p. 29:28-30:13 (“Q: “Is the [CA]ISO recommending that the Commission make a procurement decision based on these study results?” A: Not at this time.... The [CA]ISO will continue its studies to evaluate potential transmission mitigation solutions-including additional reactive support- that might address a portion of these needs....”).

procurement of between 500 and 550 MW in an all-source RFO to address the local reliability need in SDG&E's service area by 2022, the CAISO did not recommend procurement of any specific amount of capacity by 2018 in its Track 4 testimony:

Given the importance of maintaining reliability in this heavily populated, urban area of California, and the complex array of actions necessary to meet the residual needs identified by the[CA] ISO, it is urgent for the Commission to authorize an all-source procurement for SCE and SDG&E for the amounts requested.²⁴

The Track 4 decision authorized SDG&E to procure between 500 and 800 MW of new local capacity resources by 2022 due to the unanticipated early retirement of SONGS. The Track 4 decision authorized SDG&E to procure resources through a competitive RFO, bilaterally, or by executing contingency contracts.²⁵ The Track 4 decision mandated the procurement of least 175 MW from preferred resources such as energy efficiency, demand response or other renewable resources, and at least 25 MW from energy storage, for a total of 200 MW of preferred resources. The Track 4 decision authorized SDG&E to procure up to 600 MW of capacity from “any source”²⁶ and acknowledged “that all resources that can meet the specified requirements should be able to compete on a fair basis. An RFO is an effective method to accomplish this goal.”²⁷

SDG&E submitted its conventional resource plan to the Commission's Energy Division on March 21, 2014,²⁸ proposing to meet the vast majority of its LCR need through the 600 MW PPTA with Carlsbad, a bilateral agreement executed in advance of its RFO.²⁹ SDG&E submitted its Application requesting approval of the 600 MW PPTA with Carlsbad in July 2014, contending that the Carlsbad PPTA is needed to allow Encina to retire in compliance with its December 31, 2017 OTC deadline.³⁰ The CAISO testified that “the 600 MW of new resource capacity is needed before summer 2018 along with the transmission projects identified in Table 1 to ensure LCR needs are

²⁴ D.14-03-004, p. 81, quoting CAISO witness Neil Millar, Exhibit [CA]ISO-7, at 6 in R.12-03-014 (emphasis added.)

²⁵ D.14-03-004, p. 4; p. 104; OP 3, p. 144; Ordering Paragraph 6, p. 144.

²⁶ D.14-03-004, p. 4 and Ordering Paragraph 2, p. 143.

²⁷ D.14-03-004, p. 112.

²⁸ Ex. 1, Prepared Direct Testimony of Daniel S. Baerman on behalf of San Diego Gas & Electric Company, p. 2:3.

²⁹ Ex. 1, p. 3:8.

³⁰ A.14-07-009, p. 5; Ex. 1, p. 4.

met.”³¹ As explained above, SDG&E and the CAISO’s reliance in this proceeding on the timely closure of Encina to justify the Carlsbad PPTA is at odds with their Track 4 testimony, in which neither party recommended that the Commission authorize SDG&E to procure capacity by 2018.

III. DISCUSSION

A. **The Carlsbad decision’s reliance on the timely retirement of Encina to justify approval of the Carlsbad PPTA is inconsistent with prior Commission decisions and the Commission’s long-term procurement planning process.**

The Carlsbad decision is inconsistent with the carefully reasoned procurement authority granted by the Track 4 decision. The Track 4 decision accounted for prior Commission decisions that authorized SDG&E (and SCE) to procure capacity to replace infrastructure retiring in compliance with OTC requirements.³² The modeling used to inform the Track 4 decision assumed the timely retirement of OTC plants, including Encina.³³ While the Track 4 decision assumed the retirement of Encina, in addition to the closure of SONGS, it did not find or require that SDG&E must procure capacity by 2018 in order to maintain reliability or facilitate the timely retirement of Encina.

The Track 4 decision acknowledged the need to expeditiously address potential reliability concerns arising from the SONGS retirement. The Track 4 decision therefore rejected the recommendation of parties to wait for the CAISO’s 2013/2014 Transmission Planning Process (TPP) results:

With long lead-time resources requiring several years of effort, and potential reliability issues surfacing starting in 2018, we cannot wait for further information at this point.³⁴

The Track 4 decision acknowledged the lead time required to develop conventional gas-fired generation:

Procurement authorized by this decision should begin as soon as possible. Procurement needs may become critical as early as 2018, and certainly by 2020. To the extent authorized, SCE and SDG&E

³¹ Ex. 4, Testimony of Robert Sparks on Behalf of the California Independent System Operator Corporation, p. 6:27-28.

³² See e.g., D.14-03-004, pp. 2--3, citing D.13-02-015 and D.14-02-016.

³³ D.14-03-004, pp. 23-24, Finding of Fact 7, p. 124.

³⁴ D.14-03-004, p. 11.

must expeditiously pursue procurement of any gas-fired generation expected to take several years to develop.³⁵

Despite recognizing the need to move expeditiously, the Track 4 decision did not require SDG&E to procure 600 MW or any other amount of capacity by 2018. In fact, the Track 4 decision found that “[b]oth SCE and SDG&E have sufficient supplies to meet projected demands in the SONGS service area through at least 2018, even with the unexpected early retirement of SONGS.”³⁶

The PD reconciled the finding the SDG&E has sufficient supplies to meet demand at least through 2018, with the finding that “[p]rocurement needs may become critical as early as 2018, and certainly by 2020”³⁷ by determining that:

[t]hese statements are reconciled by recognizing them as referencing the then-pending need for SDG&E to procure its previously determined LCR need by 2018 to account for Encina’s retirement. They do not demonstrate a Commission determination that SDG&E’s incremental LCR need is driven by Encina’s retirement in 2018.³⁸

The PD’s reconciliation of the two statements is plausible, since the Track 4 PD was issued February 11, 2014, prior to the Commission’s adoption of D.14-02-016, the decision authorizing SDG&E to procure LCR resources by 2018 to account for OTC retirements.³⁹

In contrast, under the guise of “reconciling” the two findings the Carlsbad decision concludes that:

[t]hese statements can be reconciled by recognizing that Encina’s retirement in 2018 is the key factor in moving from a situation of sufficient supplies to one where reliability needs may become critical.”⁴⁰

The Carlsbad decision’s purported “reconciliation” is completely at odds with the Track 4 decision, which accounted for the retirement of SONGS as well as anticipated OTC retirements, including Encina, yet authorized SDG&E to procure 500-to 800 MW by 2022. If in fact the retirement of Encina was a driving factor of SDG&E incremental LCR need, the Track 4 decision

³⁵ D.14-03-004, p. 113.

³⁶ D.14-03-004, Finding of Fact 5, p. 124 (emphasis added).

³⁷ D.14-03-004, Finding of Fact 91, p. 134.

³⁸ PD, pp. 15-16 (emphasis added).

³⁹ PD, p. 16, footnote 10.

⁴⁰ D.15-05-051, p. 16.

would have authorized SDG&E to procure some amount of capacity by 2018. It did not. The Carlsbad decision's Finding of Fact 5 therefore mischaracterizes the Track 4 decision: "D.14-03-004 acknowledged that SDG&E's LCR need could arise as early as 2018 upon the retirement of the Encina OTC units."⁴¹

The Track 4 decision determined that SDG&E's need was 500 MW to 800 MW of new resources, up to 100 percent of which may be from preferred resources or energy storage, in SDG&E's LCR area on-line by 2022.⁴² The Carlsbad decision redefines the need as 500 MW, which must be on line in SDG&E's LCR area by 2018, and up to 300 MW of preferred resources, which must be on line in SDG&E's LCR area by 2022.⁴³ The Carlsbad decision's 2018 deadline for SDG&E to procure capacity is not supported by the record of the Track 4 proceeding. The revised deadline allowed the Commission to conclude that only the Carlsbad PPTA could meet SDG&E's need. The revised deadline therefore eliminated the careful balance struck by the Track 4 decision, which recognized the importance of maintaining reliability, procuring resources through a competitive process, and adherence to the Loading Order by allowing all resources to compete for the 600 MW of capacity authorized for "any resource."

The Carlsbad decision's redefinition of the Track 4 decision's need determination is inconsistent with the Commission's planning and procurement process, through which the Commission identifies need, authorizes procurement, and then adheres to the procurement authority absent an unforeseen emergency:

[T]he Commission's planning and procurement process identifies need and authorizes procurement to meet it on a biannual basis. It is axiomatic that our biannual need determinations are transitory and subject to revision; that is not a reason to deviate from our long-term procurement planning process. Absent an unforeseen emergency situation that requires a patent response, which is not the case here, the public interest in regularly conducting and acting on a sound analysis of long-term need for procurement outweighs the unavoidable risk that the future will not exactly adhere to our well-considered forecasts.⁴⁴

⁴¹ D.15-05-051, Finding of Fact 5, p. 35.

⁴² D.14-03-004, pp. 2, 4 and Ordering Paragraph 2, p. 143.

⁴³ D.15-05-051, pp. 14-15.

⁴⁴ D.14-02-016, p. 5.

The Commission has been planning to meet OTC retirements since 2010, so those retirements do not qualify as “unforeseen emergencies.” While the premature retirement of SONGS required prompt action, the Track 4 decision prudently considered the modeling results and authorized procurement to meet that need by 2022. The Carlsbad decision’s abrupt reversal of the Track 4 decision’s “sound analysis of long-term need for procurement” after taking into account the closure of SONGS as well as OTC retirements fails to adhere to the Commission’s established planning and procurement process,⁴⁵ as well as Section 1708 of the Public Utilities Code’s requirement that the Commission provide notice before altering a prior decision.

B. The Carlsbad decision’s reliance on the timely retirement of Encina to justify its approval of the Carlsbad PPTA is outside the scope of the proceeding.

The issue of capacity needed to allow the timely retirement of Encina was not included within the scope of issues identified for this proceeding.⁴⁶ This is not surprising, because the Commission’s

⁴⁵ Public Utilities Code Section 1757(a)(2).

⁴⁶ D.15-05-051 at pages 3-4 lists the following issues from the September 12, 2014 Assigned Commissioner’s Scoping Memo and Ruling:

1. Does the application comply with SDG&E’s procurement authority as granted by D.14-03-004?
2. Should the local capacity requirement identified in D.14-03-004 be adjusted to account for transmission projects identified in the California Independent System Operator’s (CAISO) 2013-2014 Transmission Planning Process (TPP)? If so, how?
3. Is the Carlsbad PPTA a reasonable means to meet the 600 MW of identified LCR need that D.14-03-004 determined may be met by conventional resources? This issue includes consideration of the following:
 - Should the Carlsbad PPTA be required to submit to SDG&E’s RFO process, whether for the entirety of SDG&E’s LCR need or only for the 600 MW identified as permissible to be met by non-preferred resources?
 - Is the Carlsbad PPTA the best fit for the identified need? This, in turn, encompasses consideration of whether there are better and available alternatives to meet this need.
 - Does the Carlsbad PPTA provide additional benefits above and beyond the identified need?
 - Will the Carlsbad PPTA enhance the safe and reliable operation of SDG&E’s electrical services?
 - Are the price, terms and conditions of the Carlsbad PPTA reasonable?
 - Are any other commitments made by SDG&E that are contingent on approval of the Carlsbad PPTA reasonable?
4. Is Cost Allocation Methodology (CAM) treatment appropriate ratemaking treatment for the costs of the Carlsbad PPTA? This issue encompasses consideration of whether SDG&E properly complied with its obligation pursuant to D.07-12-052 to establish and consult with a CAM group.
5. Is the Commission required to conduct an environmental review of the Carlsbad project pursuant to the California Environmental Quality Act (CEQA)?

earlier decisions “carefully considered and accounted for the anticipated retirement of the Encina OTC units” in determining SDG&E’s LCR need for the planning horizon 2011 to 2020.⁴⁷ Thus, the Commission’s reliance on the timely retirement of Encina to justify its approval of the Carlsbad PPTA is outside the scope of the proceeding and therefore constitutes a failure to proceed in the manner required by law.

Rule 7.3(a) of the Commission’s Rules of Practices and Procedure requires that the assigned Commissioner issue a scoping memo for the proceeding, “which shall determine...the issues to be addressed.” The Commission’s failure to follow its own rule regarding the timely identification of issues in its scoping memo led the court in *Southern California Edison Company v. Public Utilities Commission* to conclude that the Commission had failed to proceed in the manner required by law and resulted in the annulment of the Commission’s decision.⁴⁸ The court determined that the Commission’s expansion of the proceeding’s scope, acceptance of opening comments and 400 pages of materials in support of a new proposal, submitted months after the submission of other parties’ comments, was prejudicial, especially since the Commission allowed parties only three business days to comment on the new proposal.⁴⁹ Perhaps a court reviewing the circumstances of the instant proceeding would be less persuaded that parties to this proceeding suffered similar prejudice, but as Commissioner Sandoval’s dissent recognized:

The Assigned Commissioner’s Scoping Memo creates the universe of issues the proceeding is to examine, building a scaffold that supports due process and reasoned decision-making. The Scoping Memo appraises the parties and the public of what’s at stake in the proceeding by specifying the issues the proceeding will examine, the topics on which the parties should comment in the briefs and arguments, and subjects for which they should submit evidence.⁵⁰

By relying on an issue outside the scope of this proceeding to justify approval of the Carlsbad PPTA, the Commission did not act in the manner required by law.⁵¹

⁴⁷ D.15-05-051, p. 15.

⁴⁸ *Southern California Edison Company v. Public Utilities Commission*, 140 Cal. App. 4th 1085, 1106-7 (2006).

⁴⁹ *Southern California Edison Company v. Public Utilities Commission*, 140 Cal. App. 4th at 1106.

⁵⁰ D.15-05-051, dissent of Commissioner Sandoval, p. 3.

⁵¹ Public Utilities Code Section 1757(a)(2).

C. The Carlsbad decision’s requirement that SDG&E evaluate the feasibility and cost-effectiveness of synchronous condenser clutch technology is outside the scope of the proceeding.⁵²

The Carlsbad decision’s direction that SDG&E evaluate the feasibility and cost effectiveness synchronous condenser clutch technology as part of Carlsbad appeared for the first time in the APD.

Lastly, the Commission has become aware of the potential for the proposed LMS-100 units to provide even greater benefits through the addition of a clutch inserted between the turbine and the generator unit, which would allow the unit to operate in synchronous condenser mode (without the burning of fuel) when positive MW output is not required. This minor modification could offer valuable VAR support in an area of the grid that otherwise requires it. Therefore, we direct SDG&E to evaluate the feasibility and cost-effectiveness of this clutch technology.⁵³

The need for reactive power or VAR support⁵⁴ was not an issue included in the scoping memo.⁵⁵ The Track 4 decision found that “[t]he record in the proceeding shows that there are sufficient resources to provide VAR support in the SONGS study area without further action at this time.”⁵⁶

The Commission should grant rehearing to remove the language directing SDG&E to evaluate the feasibility and cost-effectiveness of synchronous condenser clutch technology. The need for reactive power was not an issue within the scope of the proceeding and its introduction after the record was closed⁵⁷ prejudiced the parties’ ability to respond. The California Environmental Justice Alliance (CEJA) pointed out that the prejudicial “eleventh hour” introduction of the synchronous condenser clutch technology in the APD, rather than in the project’s application, deprived CEJA of the “opportunity to explore the potential local need reductions offered by synchronous condenser

⁵² D.15-05-051, pp. 21-22.

⁵³ APD, pp. 21-22.

⁵⁴ Reactive power (or support) must be present in the transmission and distribution system to keep electrical current and voltage in phase and to operate electrical equipment with inductive load, such as motors, magnetic equipment, and transformers. *Resource: An Encyclopedia of Energy Utility Terms, Pacific Gas and Electric Company*, 1992. Reactive power capacity is measured in units of volt-ampere reactive or VAR.

⁵⁵ See footnote 46.

⁵⁶ D.14-03-004, Finding of Fact 19, p. 125.

⁵⁷ Rule 13.14 (a) of the Commission’s Rules of Practice and Procedure (“A proceeding shall stand submitted for decision by the Commission after the taking of evidence, the filing of briefs, and the presentation of oral argument as may have been prescribed.”)

capabilities.”⁵⁸ It therefore reflects the Commission’s failure to proceed in the manner required by law.⁵⁹ Moreover, it is not supported by the findings of fact,⁶⁰ and is therefore legally erroneous on that ground as well. Finally, since the Track 4 decision found that there were sufficient resources for reactive support without further action at this time, the Carlsbad decision’s reversal of that determination without providing notice to parties fails to meet the notice requirement of Section 1708 of the Public Utilities Code.

D. The Commission should correct two errors in the Carlsbad decision.

The Carlsbad decision states that ORA (among other parties)

counter that, to the extent the Encina OTC retirement were to cause a system reliability gap, the SWRCB, pursuant to CAISO recommendation, can extend the operation of Encina beyond its December 31, 2017, OTC compliance date while SDG&E completes its all-source RFO.⁶¹

In fact, ORA did not support the extension of OTC compliance dates in this proceeding, and respectfully requests that the Commission correct this error.⁶²

In addition, ORA recommends that the Commission take the opportunity to correct an error on page 28 of the Carlsbad decision, which cites Public Utilities Code Section 3654.1(c)(2)(A). The correct citation appears to be Public Utilities Code Section 365.1(c)(2)(A).

IV. CONCLUSION

The Track 4 decision struck a balance between several important policies: maintaining reliability, promoting just and reasonable rates for ratepayers, protecting the environment from deleterious effects, and promoting competition among resources to meet capacity needs. The

⁵⁸ California Environmental Justice Alliance Comments on Alternate Proposed Decision of Commissioner Picker Conditionally Approving SDG&E’s Application for Authority to Enter into Purchase Power Tolling Agreement with Carlsbad Energy Center, LLC, April 27, 2015, pp. 5-6.

⁵⁹ Public Utilities Code Section 1757(a)(4).

⁶⁰ Public Utilities Code Section 1757(a)(3).

⁶¹ D.15-05-051, p. 17.

⁶² The Office of Ratepayer Advocates’ Comments on Proposed Decision Conditionally Approving San Diego Gas & Electric Company’s Application for Authority to Enter into Purchase Power Tolling Agreement with Carlsbad Energy Center, April 27, 2015, Appendix A; The Office of Ratepayer Advocates’ Comments on Proposed Decision Denying without Prejudice San Diego Gas & Electric Company’s Application for Authority to Enter into Purchase Power Tolling Agreement with Carlsbad Energy Center, LLC, March 26, 2015, Appendix A.

Carlsbad decision overturns this careful balance by allowing a single conventional generator to meet more than 62% of the maximum need identified by the Track 4 decision. The Carlsbad decision's authorization for SDG&E to enter into a PPTA with a single generator in the absence of any market test or truly relevant price comparison undermines the confidence of market participants in the Commission's commitment to a competitive procurement process. ORA recommends that the Commission grant rehearing to correct the errors identified in Section III of this Application for Rehearing.

Respectfully submitted,

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