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1516 Ninth Street
Sacramento, CA 95814-5512

Re: In the Matter of: *Preparation of the 2009 Integrated Energy Policy Report (2009 IEPR)* Docket No. 09-IEP-1O

COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE JOINT ENERGY AGENCY PROPOSAL ON OPTIONS FOR ELIMINATING RELIANCE UPON ONCE-THROUGH COOLING POWER PLANTS

INTRODUCTION

On July 28, 2009 the CEC held a workshop to discuss the merits of a Draft Joint Agency Staff Paper entitled "Implementation of Once-Through Cooling Mitigation through Energy Infrastructure Planning and Procurement" (Joint Energy Agency Proposal) and invited written comments on the proposal from stakeholders. The following comments from the Division of Ratepayer Advocates (DRA) are responsive to that request.

DRA's statutory mission is to obtain the lowest possible rate for service while ensuring reliable and safe service levels. In fulfilling this goal, DRA also advocates for customer and environmental protections. Consistent with this mission, DRA provides the following feedback on the Joint Energy Agency Proposal.

BACKGROUND

On June 30, 2009 California's State Water Resource Control Board (SWRCB) issued a draft "Statewide Water Quality Control Policy on the Use of Coastal and

Estuarine Water for Power Plant Cooling." If adopted by the SWRCB, the policy would eliminate the use of once-through-cooling (OTC) water intake structures at existing coastal and estuarine power plants or where necessary, mitigate the impact of that process. Currently there are 19 operating power plants in California which rely on OTC; those plants provide nearly 30% of the state's power generating capacity.

The intent of the SWRCB proposed policy is to ensure "the State's coastal and estuarine waters are protected while also ensuring that the electrical power needs essential for the welfare of the citizens of the State are met."[1] To meet this goal, the policy relies heavily on the Joint Energy Agency Proposal. This paper, developed by staff from the California Public Utilities Commission (CPUC), California Energy Commission (CEC), and California Independent System Operator (CAISO), outlines an 11-step process designed to yield an "OTC Power Plant Replacement Infrastructure Plan" (PPRIP). Broadly speaking, the plan would consist of three stages: study the problem, strategize a solution, and implement the solution.

DISCUSSION

DRA Supports the Proposed Regional Approach to OTC Retirement

The Joint Energy Agency Proposal correctly identifies the retiring OTC resources as a challenge that can be most effectively met on a regional basis. The Proposal says, "regions whose problems are better understood and where solutions are at hand should be required to reduce OTC harm more quickly than those regions where constraints on implementing solutions are more extensive."[2] DRA agrees that allowing more time for regions with greater obstacles to OTC elimination would be advantageous.

The primary advantage of this approach is to allow additional opportunity for the South Coast Air Quality Management District (SCAQMD) to resolve its Priority Reserve Rules and make clear how current and future power plants in the SCAQMD air shed will be affected by District policy. As the Joint Energy Agency Proposal explains, if the SCAQMD does not allow for the development of new gas-fired power plants to replace retiring plants, transmission solutions which

[1] Draft Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Water for Power Plant Cooling, p. 1

[2] Joint Energy Agency Proposal, p. 7.

require longer lead times, will be required. The draft Infrastructure Replacement Milestones[3] reflect this reality and are supported by DRA.

An additional advantage to the regional approach outlined by the Joint Energy Agency Proposal: it will reduce seller advantage in the market and help limit cost of replacing, retrofitting, or repowering, OTC resources. Replacing all 30% of California's OTC capacity by the same deadline would create more concentrated demand for new resources than if that OTC capacity was replaced in phases over a series of deadlines. Procuring all the replacements in a short time frame to meet a single deadline may give sellers a tremendous advantage over buyers, and consequently ratepayers. Transitioning away from OTC resources should be executed as gradually as possible, allowing time for developers to compete in each new solicitation and for adequate consideration of alternative solutions (i.e. UOG, transmission, cost-based bilateral contracts). DRA finds that the regional approach outlined by the Joint Energy Agency Proposal provides for this gradual transition.

Suggestions Amendments to Joint Energy Agency Proposal's "Key Policy Objectives"

The Joint Energy Agency Proposal describes three key policy objectives that guide its plans for OTC replacement.[4] Noticeably absent from these principles is any reference to AB 57 which requires the CPUC to assure just and reasonable electricity rates.[5] This oversight should be corrected by adding the following objective:

> *Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.*

In addition, one of the three key policy objectives cited by the Joint Energy Agency Proposal appears to give preference to new generation solutions over transmission, retrofitting, and repowering solutions. Specifically, the Joint Energy Agency cites the following policy objective:

> *Facilitate sufficient power plant development to meet operational requirements to integrate intermittent*

[3] Joint Energy Agency Proposal, p. B-2

[4] Joint Energy Agency Proposal, p. 4.

[5] Public Utilities Code, section 454.5.

> *renewable resource development, while complying with statewide and air basin air quality attainment plans for criteria pollutants.*

This policy objective refers exclusively to "power plant development" without any references to other alternative solutions (e.g. transmission or retrofitting or repowering existing resources). This language should be amended and clarified to ensure all potential solutions are considered and that no preference for new generation over alternative solutions is conferred. DRA offers the following alternative language:

> *Facilitate sufficient infrastructure development or modernization to meet operational requirements to integrate renewable resource development.*

The "Proposal for Planning and Procurement of Electricity Infrastructure" Should Be Improved Upon in the Following Ways:

- **Opportunities for public review and input should be explicitly identified to assure transparency**

It is not clear how public input will be received by the Interagency Working Group tasked with executing this proposal, especially concerning steps 1-3, 8, 9, and 10. The Joint Energy Agency Proposal should explicitly identify where stakeholders will have an opportunity to contribute to and review the execution of these steps. For example, Step 1 would "identify existing transmission and system operations studies relevant to establishing constraints on the retirement of specific OTC plants."[6] DRA believes there should be an opportunity for stakeholders to provide input and oversight of the execution of these steps. The Joint Energy Agency Proposal should provide for that opportunity and, where possible, detail the process through which input will be received.

- **Authority over, and responsibility for, each step should be clearly identified**

It is not clear who has authority over, and will take responsibility for, several components of the plan, including steps 1a – 1d, 2c, 2e, 2g, 3, 8, 9, and10. Each of these steps is delegated to the "Energy Agencies." For example, Step 9 says,

[6] Joint Energy Agency Proposal, A-2

> *If there are changes (e.g. delays in project development or major modifications to forecast assumptions) in the infrastructure development assumptions (e.g. transmission upgrades or additions are not on schedule, or new generating capacity is not operational) upon which the Plan is based, the Energy Agencies will perform appropriate analysis and inform the SWRCB, or its regional boards, of the new time period that a specific OTC plant/unit is required for system reliability.*

Who will be responsible for assessing whether changes to the infrastructure development assumptions are warranted? The cost of service born by ratepayers may depend on timely and effective execution of these changes. Who will be accountable if such changes are not executed effectively? How does this proposal assure ratepayers that these changes will be effectively executed? DRA appreciates that each of the Energy Agencies has a critical role to play in the execution of this proposal and that the identified steps do not fit neatly under the jurisdiction of any one agency; however, the plan should explicitly identify who will be the lead agent in executing the process and who should be held accountable for its effective execution.

- **A Timeline for the Proposal's 11-Steps Should be Identified**

The 11-step process outlined by the Joint Energy Agency Proposal should include a timeline with target dates assigned to each milestone. Step 10 explains that the Energy Agencies will update the plan "periodically" to "reflect changing system conditions and transmission and generation developments."[7] These updates should either be scheduled or their triggers should be detailed. In addition, the Joint Energy Agency Proposal explains that "Refitting [nuclear] plants with alternative cooling systems or replacing their capacity and energy require special studies."[8] Specific dates for effective, but not rushed, execution of these studies should be included in the timeline.

[7] Joint Energy Agency Proposal, A-6.

[8] Joint Energy Agency Proposal, A-7.

- **Step 6 should be amended to allow for more competitive procurement opportunities**

Step 6 of the Joint Energy Agency Proposal may unnecessarily restrict competition in RFOs and likely lead to higher prices for OTC replacement resources. Step 6 says,

> The CPUC would authorize IOU procurement mechanisms to require the IOUs to conduct a large set of targeted RFOs following the 2010 and subsequent long-term procurement proceedings. These targeted RFOs would focus on acquiring needed replacement capacity in appropriate locations with operational characteristics that would allow existing OTC plants/units to retrofit, repower or retire consistent with the Plan.

DRA discourages the use of the word "targeted" to describe the planned RFOs.

As a member of the Investor Owned Utility Procurement Review Groups, DRA monitors the procurement activities of each utility. DRA's experience in this capacity shows that when broadly defined, RFOs can lead to cost-competitive solutions consistent with those needed to replace or repower retiring OTC resources. Furthermore, DRA observes an inverse relationship between the specificity of an RFO and the competitiveness of that RFO. The more specifically the buyer identifies the product it seeks, the less competitive, and consequently, less effective the RFO is likely to be.

DRA believes that this perspective was validated by numerous parties[9] at the July 28 IEPR workshop dedicated to this subject. At that workshop there was near unanimous agreement that "targeted" RFOs are undesirable. Developers explained that existing resources have an insurmountable advantage in such RFOs; IOUs explained that broadly defined RFOs allow for market innovations that narrowly defined RFOs may prevent. In light of this agreement, DRA encourages the Interagency Working Group to drop the term "targeted" from its description of the planned RFOs.

[9] DRA recalls that representatives of Wellhead, Calpine, NRG, SCE, PG&E and SDG&E concurred with this perspective at the July 28 workshop on the subject.

Finally, DRA suggests that further competition be encouraged by making it clear to the market that the IOUs have an appetite for alternative solutions (e.g. new transmission, cost-based bilateral contracts, or Utility Owned Generation). If broadly defined solicitations do not provide a good deal for ratepayers, these alternative solutions should be pursued. To facilitate these alternative procurement solutions, transmission and Utility Owned Generation alternatives should be identified and priced early and aggressively by CAISO, and IOUs. Introducing this information into the market sends a strong signal to competitors: if you wish to benefit from the retirement of OTC resources by developing new generation you will be forced to compete with alternative solutions. This increase in competition should contribute to more competitive pricing in RFOs.

CONCLUSION

In conclusion, DRA generally supports the objectives of the proposal and the regional, gradual approach to OTC plant retirements. DRA offers the following specific recommendations on the proposal.

1. Amend the Joint Energy Agency Proposal's "Key Policy Objectives" to acknowledge that assuring just and reasonable rates is a key policy objective for this proposal and that new generation solutions are not given any advantage over alternative solutions
2. Identify opportunities for public review and input to assure transparency
3. Identify who has authority over, and responsibility for, each step in the proposed process
4. Include a timeline for the Proposal's 11-Steps
5. Amend Step 6 to allow for more competitive procurement opportunities by dropping the word "targeted" from the description of the planned RFOs.

Respectfully Submitted,

THE DIVISION OF RATEPAYER ADVOCATES

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