

Docket:	:	<u>R.12-03-014</u>
Exhibit Number	:	_____
Commissioner	:	<u>Michel Florio</u>
Admin. Law Judge	:	<u>David Gamson</u>
ORA Project Mgr.	:	_____
	:	_____
ORA Witnesses	:	<u>Nika Rogers</u>



**OFFICE OF RATEPAYER ADVOCATES
CALIFORNIA PUBLIC UTILITIES COMMISSION**

**REBUTTAL TESTIMONY OF
NIKA ROGERS**

**Order Instituting Rulemaking to Integrate and
Refine Procurement Policies and
Consider Long-Term Procurement Plans
Track 4 – SONGS Outage**

(R.12-03-014)

San Francisco, California
October 14, 2013

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Q1. The opening testimony of Western Power Trading Forum (WPTF) notes that the Commission has previously denied investor-owned utilities (IOUs) rate recovery for bid development costs for utility-owned generation (UOG) projects in the context of an IOU’s competitive request for offer (RFO) solicitation, as well as project development costs (e.g., RD&D) for proposed new projects not yet approved. Are Southern California Edison Company (SCE) or San Diego Gas and Electric Company (SDG&E) requesting Commission approval here in Track 4 of the LTPP to pursue or develop utility-owned generation (UOG) projects on their respective proposed contingent sites?..... 1

Q2. Does ORA agree with WPTF’s opening testimony statement that “utility project development costs that lead to UOG proposals should not be included in rates and should be borne by the utility’s shareholders, as is the case with independent power producers”? 2

Q3. What situations or circumstances might warrant consideration of UOG projects in the LA Basin or San Diego service areas that are economic and/or cost effective?..... 3

Q4. Does ORA agree with the Independent Energy Producer Association’s (IEP) assertions that utility ownership of projects sites could give the IOUs a much greater level of market power when negotiating price, terms, and conditions that if the projects were developed by third-party independent power producers? 5

1 **Q1. The opening testimony of Western Power Trading Forum (WPTF) notes that**
2 **the Commission has previously denied investor-owned utilities (IOUs) rate**
3 **recovery for bid development costs for utility-owned generation (UOG)**
4 **projects in the context of an IOU’s competitive request for offer (RFO)**
5 **solicitation,¹ as well as project development costs (e.g., RD&D) for proposed**
6 **new projects not yet approved.² Are Southern California Edison Company**
7 **(SCE) or San Diego Gas and Electric Company (SDG&E) requesting**
8 **Commission approval here in Track 4 of the LTPP to pursue or develop**
9 **utility-owned generation (UOG) projects on their respective proposed**
10 **contingent sites?**

11 **A1.** No, neither SCE nor SDG&E requested in Track 4 opening testimony that the
12 Commission authorize pursuit or development of UOG projects on the proposed
13 contingent sites. In fact, SCE states that it “plans to develop generation sites . . .
14 that can be used by third-party developers, if needed[,]”³ and SDG&E specifies
15 that its conceptual energy park proposal “would be made available to independent
16 generators in future RFOs to meet local resource need.”⁴ Furthermore neither
17 utility has asked for approval of their proposed contingent site development plans
18 here in Track 4 of the LTPP. Instead, both utilities stated that approval of these
19 proposals would be requested through separate applications filed with the
20 Commission.⁵

¹ Testimony of the Western Power Trading Forum on Track 4 Issues, September 30, 2013, (WPTF Opening Testimony_, p. 9, citing D.07-12-052, pp.207-208.

² WPTF Opening Testimony, pp. 9-10, citing D.06-05-016 (SCE’s 2006 GRC), D.09-03-025 (SCE’s 2009 GRC), and D.12-11-051 (SCE’s 2012 GRC).

³ Track 4 Testimony of Southern California Edison Company, August 26, 2013 (SCE Opening Testimony), p. 61: 7-8.

⁴ Prepared Track 4 Direct Testimony of San Diego Gas and Electric Company, Robert B. Anderson, August 26, 2013 (SDG&E Opening Testimony/Anderson), p. 16: 17-18.

⁵ SDG&E caveats submission of an application before the Commission with “to the extent [SDG&E] elects to pursue this energy park proposal, SDG&E will file a separate application with the Commission seeking approval to move forward with such a plan.” (SD&GE Opening Testimony/Anderson, p. 17: 8-10.) Also see SCE Opening Testimony, p. 50: 17-18, p. 51: 4-8.

1 **Q2. Does ORA⁶ agree with WPTF’s opening testimony statement that**
2 **“utility project development costs that lead to UOG proposals should**
3 **not be included in rates and should be borne by the utility’s**
4 **shareholders, as is the case with independent power producers”?**⁷

5 **A2.** Should SCE and SDG&E elect to pursue their proposed contingent site
6 development plans by filing a separate application requesting Commission
7 approval for these contingent site development reserves and with that, elect to
8 pursue UOG development projects on these sites, ORA would then evaluate the
9 reasonableness of the costs associated with that UOG bid to determine whether
10 such UOG proposals or projects warrant rate recovery from ratepayers. WPTF
11 correctly points out that ORA, among other interveners, previously objected to
12 SCE’s 2006 and 2009 general rate case (GRC) request for ratepayer funding for
13 utility generation project development.⁸ However, SCE’s prior GRC proposals for
14 ratepayer funding of UOG project development are, not directly comparable to the
15 issues here; specifically, the potential for UOG development on the proposed
16 contingent sites, and the current reliability situation in the Los Angeles (LA) Basin
17 and San Diego service area brought about by the unanticipated and early
18 retirement of SONGS. For that reason, ORA would need to evaluate the proposed
19 costs of the UOG bid or proposed project associated with the SONGS retirement
20 at the time the contingent site Certificate of Public Convenience and Necessity
21 (CPCN) application is submitted, and then determine the reasonableness of any
22 costs for which recovery in rates was requested. It is not possible for ORA to
23 prejudge its position on the reasonableness of such costs without first seeing them
24 and the context in which they were expended.

⁶ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

⁷ WPTF Opening Testimony p. 11.

⁸ See WPTF Opening Testimony, pp. 9-10.

1 In general, ORA supports the Commission’s determination on the cost of
2 UOG bids as it was litigated in the 2010 LTPP. In the 2010 LTPP decision,
3 (D.) 12-04-046, the Commission sought to address fairness in evaluating UOG
4 bids against purchase power agreements (PPA) bids in an IOUs’ competitive
5 request for offer (RFO) solicitation. In D.12-04-046 the Commission determined
6 that UOG projects shall not bid into an IOUs’ RFO and that UOG “shall
7 be evaluated using criteria comparable to those used to evaluate independently-
8 owned generation.”² The Commission also determined that:

9 “in evaluating UOG proposals, the Commission should
10 consider all of the project costs, and the utilities should
11 include project development costs in their requests for
12 acquiring UOG facilities, as well as for utility-constructed
13 ones. If an independent developer wants utility ratepayers to
14 pay for costs, such as planning, design, and project
15 development it must include those costs in its bid.”¹⁰
16

17 ORA agrees with this finding that all costs associated with developing a UOG
18 project proposal should be made upfront in the utility’s bid so that the UOG bid
19 can be easily comparable to a PPA bid.

20 **Q3. What situations or circumstances might warrant consideration of UOG**
21 **projects in the LA Basin or San Diego service areas that are economic**
22 **and/or cost effective?**

23 **A3.** As I mentioned in my September 30, 2013 testimony, the premature and
24 unanticipated retirement of SONGS warrants consideration of all procurement
25 options to ensure reliability and maintain stability of the grid. In considering
26 procurement and generation replacement decisions ORA notes that one size does
27 not fit all. The utilities should pursue procurement through traditional avenues
28 such as an RFO but must also be cognizant of market power issues that arise
29 because of the local reliability need created by SONGS’ absence. Under these

² D.12-04-046, Ordering Paragraphs 5 and 7 pp. 74 – 75.

¹⁰ D.12-04-046, p. 33.

1 circumstances, consideration of UOG and bilateral contracts that are economic,
2 competitive and cost-effective is reasonable and consistent with previous LTPP
3 decisions. Per D.07-12-052, the *Opinion Adopting Pacific Gas and Electric*
4 *Company's, Southern California Edison Company's and San Diego Gas and*
5 *Electric Company's Long-Term Procurement Plans*, the Commission in its
6 discussion of UOG vs. PPAs, sets forth five categories in which UOG projects can
7 be considered and pursued:

- 8 • **“Market Power Mitigation** – the IOU must make a strong showing
9 that as a result of some attribute of the desired resource, a private
10 owner would have the ability to exert significant influence over the
11 price of its development or of the price and quantity of its output
12 (energy, capacity, or ancillary services);
- 13 • **Preferred Resources** – while we continue to rely on markets to
14 deliver efficiently priced products for ratepayers, we see no reason to
15 limit our options and intend to continue to deploy all resources
16 available to us, including utility development and ownership, to meet
17 California’s vital environmental policy objectives;
- 18 • **Expansion of Existing Facilities** – we can envision certain unique
19 circumstances in which ratepayers would benefit from development
20 on or expansion of an existing IOU asset that would not lend itself to
21 the PPA project structure, but the IOU would need to make a strong
22 showing that such development were clearly preferable to a resource
23 that could be obtained via a competitive solicitation that would not
24 necessarily result in utility ownership;
- 25 • **Unique Opportunity** – an attractively priced resource resulting
26 from a settlement or bankruptcy proceeding (we anticipate that these
27 opportunities will diminish over time); and
- 28 • **Reliability** - resources needed to meet specific, unique reliability
29 issues (particularly under circumstances in which it becomes evident
30 that reliability may be compromised if new resources are not
31 developed, and the only means of developing new resources in
32 sufficient time is via UOG.”¹¹

¹¹ D.07-12-052, the *Opinion Adopting Pacific Gas and Electric Company's, Southern California Edison Company's and San Diego Gas and Electric Company's Long-Term Procurement Plans*, pp. 211 – 212 (footnotes omitted).

1 At least two these five categories apply here to the situation of an early SONGS
2 retirement. Clearly concerns about market power issues and reliability warrant at
3 the very least consideration of UOG development if the utility can prove it is a
4 cost-effective and economic alternative to third-party developer projects selected
5 through an RFO.

6 **Q4. Does ORA agree with the Independent Energy Producer Association's**
7 **(IEP) assertions that utility ownership of projects sites could give the**
8 **IOUs a much greater level of market power when negotiating price,**
9 **terms, and conditions that if the projects were developed by**
10 **third-party independent power producers?**

11 **A4.** Many of the concerns IEP raises regarding utility ownership of projects and the
12 exertion of market power are equally applicable to Independent Power Producers
13 (IPP) projects and those selected through an RFO. Those problems are not unique
14 to UOG projects. The market power issue arises not because of the resource type,
15 but because of the circumstances unique to the LA Basin and San Diego service
16 area that resulted from the premature retirement of SONGS. ORA reiterates that it
17 only wants to assure that all options, be they PPA, bilateral, or UOG, be available
18 and considered in making procurement choices to replace SONGS. The more
19 options the utility has in selecting resources to replace SONGS, the less likely that
20 ratepayers will be disadvantaged by the exercise of market power. Any resource
21 selected, regardless of the type of resource it is, should be as economic and
22 cost-effective as possible for ratepayers.