

Ratepayers for Affordable Clean Energy
CPUC Rulemaking 04-01-025
March 23, 2004

Addendum B:

**Impacts on Natural Gas Demand from Current Changes in
Electricity Procurement and Community Choice Aggregation in
California's Energy Markets**

1. Introduction

Electrical power now accounts for more than a third of the demand for Natural Gas in California. Even more important, the generation of electricity is expected to be the driving force for new gas demand for some time into the future. Only by understanding what is happening with electricity can we fully grasp the significance, and the serious problems associated with the present efforts to increase natural gas supplies to California.

Liquid Natural Gas (LNG) facilities have been proposed for California on such a large scale that they could easily supply double the current consumption levels. This is in addition to large expansion of interstate pipelines. Such capacity expansions, which can only be paid for by increased sales, threaten to glut the market with gas, particularly when

recent changes affecting power plant construction are taken into account. Over-supply is intended, in fact designed, to induce a devaluation of natural gas, which will in turn increase our reliance upon it.

This "supply inflation" is headed for collision with a broad range of policies, trends, decisions, and even laws. And the attempt to saddle customers with the costs and risks for these new supplies, directly conflicts with a number of critical electrical system and broader energy goals. These include:

- 1) The development of clean, renewable energy, such as solar and wind power;
- 2) The efforts to develop and expand energy conservation;
- 3) The necessity to reduce congestion of already overloaded power transmission lines;
- 4) efforts to exercise control over energy prices by energy efficiency and demand curtailment;
- 5) The implementation of new market structures that avoid reliance on spot markets;
- 6) the urgent need to limit the ability of sellers to "game" the market in gas and electricity;
- 7) the goal of reducing exposure to over-reliance on one fuel;
- 8) the implementation of the state's Renewables Portfolio Standard; and
- 9) the implementation of California's new Community Choice law (AB 117) which aims to give Cities and Counties the ability to plan their own energy future.

Pushing large new supplies of natural gas will only have the effect of crowding out desperately needed solutions to a variety of local, state and even global problems. These issues range from local energy security to greenhouse gas emissions.

Excessive reliance on Natural Gas is itself a risk in many respects. It carries with it a host of environmental, economic and now, with the prospect of LNG facilities looming, major public safety and global security problems. Numerous analysts have pointed out that natural gas, with its famously volatile prices, was the major force behind the Electricity Crisis in 2000 - 2001. This volatility is caused by factors other than a shortage of fuel. The cost of pollution controls is a leading reason for retirement of old gas fired generators, and, second to market abuse by gas suppliers, the trading of NOx emission credits for gas-fired power plants was a major factor driving up the price of electricity during the summer of 2000.

We favor the replacement of old facilities with newer, cleaner and more reliable generators. Their greater efficiency actually reduces demand for gas. But what is now proposed by the gas utilities is pushing the burden of risk for added new electrical capacity onto the consumers, which we are specifically opposed to. The only reason for such an action must be their realization that there is no demonstrated need for their product, and that their risk cannot be justified by likely demand for gas. Increasing gas supplies beyond any demonstrated need is unsound. And forcing customers to pay for this mistake, whether or not they actually use the gas, is unfair. It is also a poor choice, especially when set next to the other solutions that are available to us.

In particular we are concerned with implementation of the new Community Choice Law,

because it offers a solution to many of the problems identified in this proceeding.

Under this new law San Francisco is planning to exit the current system of electricity procurement, and forge its own path towards increased reliance on conservation and clean renewable energy. Dozens of other California cities and counties are preparing to follow suit, and this could have a dramatic impact on California's energy future. It could, and in fact specifically aims to, decrease the need for fossil fuel and nuclear power plants. The potential impact of such a shift in policy upon the demand for natural gas is obvious. Likewise, increasing the state's investment in and dependence upon natural gas could significantly set back these other efforts.

Dozens of California cities, and the citizen groups represented in the RACE coalition, are depending on a course of action that will allow for implementation of conservation and renewable energy on a significant, even historical scale. It is not an overstatement to say that the ramifications of these decisions extend far and wide, and are being watched across the country, and even the world. We urge the Commission to keep this in mind as it commits our state to its future course.

2. Respondents Refused to Answer Electricity-Related Data Requests

While SoCalGas/SDG&E were unique among the Respondents in responding to our

March 9 data request by March 18, now two business days prior to the March 23 deadline for this document, SoCalGas/SDG&E nevertheless refused to answer more than half of RACE's questions. Yesterday afternoon we received electronic copy of the answers of Southern California Gas Company ("SCG") and San Diego Gas and Electric Company ("SDG&E") to less than half the questions contained in RACE's Data Request.

Although we have not yet completed our review of materials provided by SCG and SDG&E, it is clear that they have only provided "answers" to eight of the seventeen questions we submitted. The remaining nine "responses" by SoCalGas and SDG&E are merely statements objecting to providing the requested materials, leaving the questions themselves completely unanswered.

The other two remaining "answers" provided by SCG and SDG&E yesterday refused to provide the CERA analysis relied upon in their Phase 1 Proposal and the workpapers for that analysis unless an appropriate non-disclosure agreement is in place. Clearly, that will not occur by the time that RACE currently is required to file our Phase 1 comments on March 23rd.

Finally, SoCalGas/SDG&E refused to answer any questions regarding electricity generation, despite the fact that virtually all the new load for gas supply that will be delivered by Phase I of R.04-01-025 is virtually earmarked for new gas-fired electricity

generation. Particularly objectionable among the questions SoCalGas and SDG&E refused to answer were those asking them to demonstrate how their gas load forecasts would be impacted by changes in the electricity sector, claiming that such questions regarding electricity generation are “beyond the scope of this proceeding and...not reasonably calculated to lead to the discovery of admissible evidence.” Furthermore, claimed SoCalGas/SDG&E in response to RACE’s questions about the prospects for new gas-fired power plants, such questions “seeks data and information that was not relied upon by SoCalGas and SDG&E in preparing its Phase I submittal.”¹

This is untrue. In fact, *virtually all forecasted increases in gas load are due to forecasted construction of new gas-fired power plants* some of which were permitted by the Davis Administration, and many of which have *never been built*:

“Beyond the year 2000, California’s natural gas use over the next decade is expected to increase from 6,400 MMcf/d in 2000 to 7,500 MMcf/d by 2010, a 1.5 percent increase on an annual basis. *Virtually all of the increase stems from increased electric generation in California*, with that sector experiencing growth in excess of 2.5 percent per year.”²

¹ SoCalGas/SDG&E, “Gas Market OIR (R.04-01-025) 1st data request of Ratepayers for Affordable Clean Energy (RACE) to Southern California Gas Company and San Diego Gas & Electric Company, Sent by Email March 17, 2004.

² (CEC FUELS OFFICE STAFF WHITE PAPER, California Energy Commission Workshop, Natural Gas Issues That May Affect Siting New Power Plants In California, January 25, 2001)

While replacing older gas-fired generation with new technology was expected to decrease gas demand in the short term, the potential of new gas-fired generation was expected to increase it dramatically.

“In the short-term, it appears that more efficient generation should displace older, less efficient generating units. *Through 2003, net annual demand for electric generation is actually expected to decline to 2,400 MMcfd before rising to 3,300 MMcfd by 2010. This estimate could change if, over the next five years, current trends in in-state generation continue, resulting in higher natural gas demand for in-state power generation.*”³

There are 28,433 MW of natural gas-fired generation now online in CA, including the 8,311 MW of new capacity or re-retooled power plants⁴. The estimated natural gas usage for the past year was 2500 MM Cubic Feet per Day. On average, California’s natural gas power plants are .088 MMCF/d per Megawatt. In particular, increasing peak demand is identified as cause for alarm about the ability of California’s natural gas-based electricity system to provide for reliable energy supply:

“Increasing peak demand for electricity is causing concern about the adequacy of the pipeline infrastructure to deliver needed natural gas to California. Peak summer demand will continue to grow, as well as winter peak demand for space heating. *Given the continued reliance on natural gas for electric generation, pipeline capacity to fully deliver gas to California electricity generators and to other customers within the state may not be possible on days of peak demand. This gives rise to questions regarding the reliability of the natural gas*

³ CEC FUELS OFFICE STAFF WHITE PAPER, pp.4-5)

⁴ California Energy Commission, Energy Information, 2004.

*infrastructure and its adequacy to serve the state s peak demand.”*⁵

The CEC observed that new gas-fired power generation was a major factor in SDG&E’s gas shortages of 2000:

*“In the San Diego area, the natural gas infrastructure has reached the limits of its capability to deliver natural gas. For example, on a cold day in January 1999, natural gas demand in the SDG&E service area almost exceeded the delivery capacity. In addition, during the summer of 2000, SDG&E, on several occasions, barely met its customers gas demand without curtailing service. Then on November 13th and the four following days, SDG&E did not have sufficient pipeline capacity to meet all natural gas needs. Noncore curtailment occurred. *The situation in San Diego was compounded when in June 2000 SDG&E started delivering natural gas to Mexico to meet power generation gas demand at the Rosarito Beach facilities.*”*⁶

The CEC observed that new power generation had a similar role with SoCalGas:

*“The growth in demand for the SoCal Gas system will be driven by electricity generation. The levels of natural gas needed for electricity generation shown in Table 2 will be dependant on how much new southwest generation is built in the next few years and the availability of southwest electricity imports into California. More electricity imports would reduce natural gas demand for electricity generation. Conversely, lower levels of imports would mean a higher need for natural gas for electricity generation.”*⁷

This had a particular impact on the noncore gas curtailments of 2000:

⁵ CEC FUELS OFFICE WHITE PAPER, p. 5.

⁶ CEC Fuels Office White Paper, p. 6.

⁷ CEC Fuels Office White Paper, p.7

“Currently, the SoCalGas service area has flexibility to meet its natural gas customer s needs. This is due to both to its receipt capacity of 3,500 MMcfd and its large natural gas storage capability. But during the past couple of years, the company has had to depend more often and for longer periods of time on its storage to meet summer natural gas demand. This was because its supply receipt points were operating at or near capacity during this time and *more gas was needed to meet increased power plant natural gas needs*. Without adequate storage when receipt capacity is running full to meet demand, SoCal Gas losses its flexibility to meet peak demand.”⁸

The same goes for PG&E:

“PG&E has adequate storage to meet its gas requirements for its residential, commercial and small industrial customers. *However, with only seven billion cubic feet (Bcf) available for the growing electric generation sector, PG&E s storage is rather inadequate to meet its noncore customer needs...*“Additionally, given the level of prospective natural gas demand growth for electricity generation in the PG&E service area shown on Table 2, it is most likely that new infrastructure will be needed.”⁹

3. Electric Forecast Indicates That New Gas-Fired Generation May Never Be Built

In fact, the California Independent System Operator projects electrical capacity in the state under ISO jurisdiction to grow from 56,912 GW peak capacity to just a little more than 59,024 GW statewide over the next five years - this projection includes 2122 MW of added net new generation capacity currently under construction and online by 2007, with no more projected new generation thereafter.¹⁰ All other gas-fired generation built since

⁸ CEC Fuels Office White Paper, p. 7.

⁹ CEC Fuels Office White Paper, pp.7-8

¹⁰ California ISO, Five-Year Assessment (2004-2008) October 10, 2003, p. 7.

then has been to replace older, less efficient gas-fired power plants, which has reduced, not increased, gas load in California. The state has gone through the period of proposals and approvals of new capacity, followed by a huge drop-off in proposals.¹¹ This additional electrical capacity will easily meet all the base forecast requirements for the next five years, and all but one of the high reserve forecasts. That worst case gives us 4.9% reserve over expected worst case electrical peak, meaning that, short of capacity curtailments, the current online or under construction fleet is adequate for five years, and requires no new gas capacity.

A major electric load issue impacting gas demand is electrical generation capacity curtailment. While it may be tempting to imagine that simply adding capacity to deliver fuel is the solution to electrical supply, in fact the opposite can often be the case. Ironically, gas itself is identified by the ISO as one of the particular risk factors for curtailment of electrical generation, *especially during periods of peak demand*. Among the more important reasons given by the ISO for potential curtailments is “stricter air quality standards” which will likely lead to the retirement of over 1 (one) GW of generation capacity. Adding new gas generation, unlike replacing the old plants, will create even higher levels of air pollution.

¹¹ The CEC gave a figure for plants with a 75% probability of completion resulting in a net addition of 2122 MW, with 3746 MW being built and 1624 MW retiring over the next five years. *Source: California’s Electricity Supply and Demand Balance Over the Next Five Years, California Energy Commission, Jan. 28, 2003, p.5.*

This is where solar peakers become the logical replacement. According to the ISO, large portions of gas supply is unreliable year-round, including over eight (8) GW of thermal generation capacity that is not required to remain online. In contrast, during the summer peak months, solar photovoltaic cells are 65% reliable according to the ISO, and 80% to 100% reliable according to the National Renewable Energy Laboratory,¹² considering its match to daytime peak load.

“Using well-documented planning methods, we can demonstrate that PV can provide dependable summer peak capacity in California, reduce the run time of existing high-polluting peaker plants, reduce the number of new gas generation plants needed, improve the reserve capacities of the transmission and distribution system, operate in conjunction with energy efficiency measures, reducing system peak load, more than either alone could, further reduce total power plant emission, provide a valuable energy option if natural gas prices fluctuate.”

It is significant that among the causes of curtailment, pollution from the old gas-fired power plants would only be exacerbated by any added new gas-fired power plant capacity, however efficient. San Francisco, Central Valley, and the Los Angeles basin are already non-compliant with federal Clean Air Act standards so that the state faces the loss of \$ Billions (*sic!*) in federal transportation dollars. In addition to other pollutants, new gas-fired power plants produce one half ($\frac{1}{2}$) the CO₂ pollution per BTU as new coal plants, a significant greenhouse gas source. Much more methane escapes during the production and processing of natural gas than had previously been realized. Methane is

¹² “Using Photovoltaics to Preserve California’s Electricity Capacity Reserves, Christy Herig, National Renewable Energy Laboratory, Golden, CO, September 2001, p.1.

20 times more powerful a greenhouse gas than carbon dioxide, so a mere 3 percent rate of leakage from ever-lengthening gas pipelines can undermine the environmental benefits of burning it instead of oil. According to the latest available EPA figures, pipelines and wells in the U.S. leaked around 1.5 percent of their methane into the atmosphere in 2000. Worldwide, leaky gas pipelines and other gas infrastructure could be spewing as much as 2.3 percent, according to the International Energy Agency.

Another risk of all fuel-based systems is the removal of load for planned, forced and economic outages. power plant shutdowns, and the loss of power due to forced and planned outages which can amount to 10%, 3,500 MW, of ISO “participating” thermal plants during the peak summer months. In 2003 the CEC reported a peak of 7,622 MW of power pulled off-line for forced and planned outages, and this did not include “Economic Outages” that added another 3000 Megawatts.

Among the other capacity curtailments other than gas shortages or pollution shut-offs, the ISO mentions gas pipeline outages. Federal Bill HR 3609 of 2003 requires inspection and repair of all critical gas pipelines over a ten year period. That could put a plant out anywhere from a week to several weeks, meaning increased dependence on pipeline-delivered fuels will add to capacity curtailments.

The final adverse scenario cited by the ISO is the lack of implementation of a planned

conservation measure to address peak load problems.¹³

A further problem with building additional gas-fired power plant capacity is encountering and aggravating electrical transmission line congestion, which can incur congestion charges averaging \$88,000/day average at one substation in Imperial Valley.

“Until implementation of a new market mechanism, mitigation of inter-and intra-zonal congestion will continue to be handled in real-time.”¹⁴

Thus new market mechanisms, not new added electrical capacity from gas-fired power plants, will help with the problem of congestion, by having locally-based and environmentally clean power. The plan to implement new gas generation conflicts with implementation of this new market mechanism.. Community Choice Aggregation replaces real-time spot markets with long-term contracts, which provides not only sustainability but also stability and therefore predictability, as well as displacing demand through energy efficiency and conservation. Gas only makes things worse.

Since 1999 California has built 8,311MW of new gas fired generation - combined cycle, cogeneration, and peakers. There is a total of 15,352 MW of potentially buildable new gas-fired electrical capacity in various levels areas of development, and many have been

¹³ California ISO, Five-Year Assessment (2004-2008) October 10, 2003, pp.3-4.

¹⁴ CA ISO, Five-Year Assessment, p.6.

placed on hold or outright cancelled:

- 7889 MW of power plants approved but not under construction yet
- 3867 MW of power plants under review
- 896 MW of plants only "announced" but not yet reviewed
- 2700 MW of plants "planned" but not reviewed

So apart from the 8,311 new gas-fired power plants online, and 7463 announced, planned or under review, but not approved, there are 23 “approved” power plants that are not yet online, but among them only seven are actually under construction, four are facing financing issues, nine are on hold, one’s approval expired, and three were cancelled.¹⁵

That is 8,311 online, 3005 MW under construction, 5548 MW on hold, 2132 MW facing financing issues, and 393MW expired or cancelled. Among California’s 23,663 MW of “approved” new gas-fired power plants, only 11,316 MW is online or under-construction, and not all of these are rate base-able. There are 7463 announced, planned or under review.

Thus, the forecast-able demand for gas is far from clear.

4. The Issue of Peak Gas Load

¹⁵ CALIFORNIA ENERGY COMMISSION ENERGY FACILITY STATUS
Updated: 2/18/2004

RACE Consultant Synapse Energy has addressed the issue of peak gas load in detail. A major concern of the gas peak problem is related to over-reliance on one fuel delivery system - gas pipelines - giving the controllers of those pipelines the ability to profit from illegal or legal but malevolent and anti-social actions, and this underscores the importance of market power issues in resource planning..

The vulnerability of pipeline-based fuels to contrived shortages and price manipulation underscores the importance of distinguishing between contrived and real shortages in the Commission's analysis and policies. Otherwise, the Commission risks the illusion that it has solved a problem that it has not even addressed:

“It is possible that the addition of at least one Liquefied Natural Gas (LNG) port capable of serving gas to Californians, including California's electric power plants, can provide at least some of the benefit we are searching for in fuel diversity. Only in this case, it would not be diversity of the fuel types, but of the fuel sources.”¹⁶

This is a classic example of such an error. For power plants, the benefits of fuel diversity are *not achievable* through LNG because LNG delivery depends upon the same pipeline as other natural gas fuels. Thus, LNG does not provide “fuel source diversity” relative to inter-state pipeline supply to the extent that the new source of fuel still requires the same *pipeline*. The new gas fired power plants actually represent a dramatic *decrease* of fuel

¹⁶ CPUC D.04-01-050, p.133

supply diversity, in that California's old gas-fired power plants were dual-fuel powered, with a month's supply of fuel oil on site in the event of a gas pipeline supply interruption. Actual fuel diversity - and *delivery system* diversity - is needed to protect California's energy markets against both real and contrived shortages.

5. The Issue of Electrical Peak Load

Being that all new forecasted increased gas demand in California is contingent on as -yet unbuilt, un-financed power plant proposals, peak electricity and capacity forecasts play a major role in forecasting peak demand in gas load. As there is no forecasted increase in gas load for gas utility customers in California, R.04-01-025 is largely concerned with providing fuel for electric procurement in R.01-10-024 that are now being forecasted, with electric procurement plan authorizations scheduled for the end of 2004

Like gas peaks, electric peaks are subject to manipulation and contrived shortages. Prior to deregulation, there was a cap on the percentage of power allowed to be off at any given time. When they deregulated its electric industry, the cap was lifted, allowing any merchant generator to turn off capacity at will. This ability was the crux of the energy crisis, because shortages could be contrived in order to manipulate both gas and electricity spot market prices. During the heat of the power crisis, then-president of the CPUC Loretta Lynch testified before the Assembly Utilities and Commerce committee in

the Summer of 2000 that, when she and other officials of the CPUC visited a certain merchant power plant power plants turned off “for maintenance” in the middle of statewide power shortages, the operators of the plant physically refused her access to the building.¹⁷

Currently, the ISO maintains a body of generation capacity that governs “participating” generators essentially by contract, but joining this system is purely voluntary, and 8,593 MW of thermal generation capacity remains uncontrolled year round.

But because the Davis administration and many others failed to recognize that the shortages were in fact contrived by the likes of El Paso, the state went on to issue a maelstrom of permits to overbuild gas-fired power plants. To some extent the damage has already been done - 8,311 MW of new gas-fired power plants online since 2000, and these certainly need fuel. Yet the flip side of this failure to distinguish between contrived and real shortages is the current frenzy to provide LNG from foreign countries to existing and “approved” but nonexistent power plants. This approach could be dangerously speculative. A look at the actual increased power plant gas load shows that there may be no increased gas load in the foreseeable future.

Given that the state of California has built so few gas-fired peaker plants (1129 MW

¹⁷ Personal recollection of the author..

online statewide, none pending except the San Francisco Public Utilities Commission)¹⁸ because they cut back on their peaker goal facing strong local community opposition, there is no further increase in gas-fired peaker plant capacity going through the permitting process in California at this time.¹⁹

In addition, because many of the new gas fired power plants in California were built as replacements of inefficient oil & gas-fired power plants, the net load impacts of their construction have been to reduce rather than increase statewide gas load. Presently, there are more than 50 power plants supplying electrical services to the California grid that are more than 30 years old, and many have exceeded their design lifetime:

“Continued use of these aging power plants could...have implications on the availability and price of natural gas supplies in the state, compared to the use of newer power plants.”²⁰

Accordingly, the 2003 Integrated Energy Policy Report of the California Energy Commission, 4630 MW of old power plants on California’s grid are projected to be retired over the next several years, 7232 MW by the ISO. As these plants are replaced

¹⁸ California Energy Commission Map “Current, Expected and Approved Peaker Power Plants,” January 27, 2004.

¹⁹ As of the end of January, 2004, there are a total of 12 online peaker plants (above 50MW), 4 current projects, and 2 plants expected in the state of California.

²⁰ California Energy Commission Letter, Margret Kim, Public Advisor, March 11, 2004.

with newer, up to 65% more efficient natural gas-fired power plants, the gas load associated with this existing electrical capacity will drop, not rise.

With electric utilities like SDG&E proposing to build and rate base new greenfield gas-fired power plants, the Commission faces a decision whether to actually increase gas-fired power plant capacity, thus also gas demand, in California. This has not yet been authorized by the Commission, and is the subject of the electric procurement proceeding, R.01-10-024, as well as the Community Choice proceeding, R.03-10-003 and the energy efficiency proceeding, R.01-08-028.

As referenced in the Commission's electric procurement proceeding, most of the "permitted" gas-fired power plants were never built: because, recognizing the overbuilding of such plants in recent years - some built in areas without adequate transmission lines even to connect them to customers - financial institutions are unwilling to underwrite them without long-term contracts. Therefore, the forecasted increases in gas load in California - the very forecasts put forward by the utilities in their proposals - are themselves partly "contrived."

In electricity procurement, if you include everything including Emergency Response Systems, the amount of peak electrical capacity available to California ranges from

almost 64,000MW in 2004 to almost 66,000 MW of available capacity in 2008.²¹

Currently, 28,433 MW of this available capacity comes from gas-fired power plants. If added to the gas-fired generation under construction at the present time (2459 MW), the total gas-fired generation physically located generation in California is 30,892 MW.

6. Electric Procurement Proceeding R.01-10-024 Circumscribes Utility Procurement and Rate-Basing of Contracts and Power Plant Construction

Given that virtually all forecasted gas load increases of the coming decade are attributable to forecasted gas-fired electricity generation, the Commission’s gas procurement proceeding is directly dependent on the electric procurement proceeding, R.01-10-024, for determining the level of demand for rate base-able new gas-fired generation. Indeed, in the January 22 electric procurement decision, D.04-01-050, the Commission makes specific reference to the potential role of LNG, however misguided, in providing fuel for new power plants:

“It is possible that the addition of at least one Liquefied Natural Gas (LNG) port capable of serving gas to Californians, including California’s electric power plants, can provide at least some of the benefit we are searching for in fuel diversity. Only in this case, it would not be diversity of the fuel types, but of the fuel sources.”²²

²¹ California Energy Commission California’s Electricity Supply and Demand Balance Over the Next Five Years, January 28, 2003, page 6.

²² CPUC D.04-01-050, p.133

Yet D.04-01-050 ultimately decreased the forecasted rate base-able load for gas-fired generation. California's Community Choice Aggregation ("CCA") law (AB117 of 2002, Migden) authorizes any California municipality or group of municipalities to break away from utility procurement to solicit bids from an Electric Service Provider. On January 22, 2004, the Commission approved an electric utility procurement framework for R.01-10-024 in a unanimously approved decision (D.04-01-050) which expressed a consensus behind the idea of establishing a non-prejudicial *parallel process* between the electric utility procurement authorization scheduled for the end of 2004 in R.01-10-024 and Community Choice Aggregation in R.03-10-003. This intent marks a significant change from the Commission's earlier December 18 plans, which did not even mention Community Choice Aggregation and would have authorized the electric utilities to negotiate five years of natural gas-fired capacity. Commissioner Lynch made this clear in her comments prior to the vote:

"I want to thank all of the Community groups and individual citizens who made Community Choice front and center in our consideration - it certainly was not much of a part of this proceeding until now. Your words to us and actions really made us think more than twice about how this proceeding affects Community Choice. It was certainly not something I was sensitized to it until the Community Choice community sensitized me to that. I would certainly welcome all the groups not traditionally in front of the commission, to participate. It is an historic issue for us how we set the path for the next five years...we will have another very large step to approve the utilities five year plans at the end of this year. I encourage the community groups to participate as it has been a real eye opener." ²³

President Peevey confirmed the Commission's recognition of its responsibility to respect

²³ Jan. 22, 2004 Commission Meeting audio transcript.

the right of Community Choice Aggregators to manage procurement, demand response and renewables:

“Let me highlight significant areas of agreement that are reflected in this decision...Community Choice Aggregation is state law and we are working to foster and promote community efforts to handle their own energy futures, including their *demand response, renewable procurement and general electricity procurement.*”²⁴

Commissioner Brown confirmed the commitment of the Commission to protecting CCA from negative impacts of electric procurement :

“Of course, being a San Franciscan I was besieged with comments about Community Choice and sensitive to it...this procurement order requires utilities to come up with two forecasts over a period of time about Community Choice, and the Commission will supervise and review those forecasts to ensure that there is enough power available for Community Choice Aggregators - that these (utility) contracts do not squeeze out the potential for communities to acquire their own sources of power. We are doing what we can to make the spirit of AB117 (the 2002 California Community Choice law) work. And this change in the document has facilitated that.”²⁵

Commissioner Wood described what he called a “consensus” among Commissioners that the Commission must create a system that creates an important electric procurement role for utilities while “emphasizing” the rights of CCAs :

²⁴ Jan. 22, 2004 Commission Meeting audio transcript.

²⁵ Jan. 22, 2004 Commission Meeting audio transcript.

“This commission agrees on an approach towards planning that creates an important role for the utilities but also places a lot of emphasis on the opportunity of local communities to determine their own energy future and *overcome any of the functional incompatibilities or contradictions between those two things.*”²⁶

D.04-01-050 recognizes that rate basing of new power generation and long-term power contracts leverage the ability of gas-fired power plant developers to secure financing of power plants that no bank will otherwise underwrite:

“The CEC’s reports show that approximately 5000 MWs of new generation have been permitted in California but not yet built. Many market generators that hold these permits are in severe financial distress and cannot continue construction without long-term supply contracts with the utilities or other load serving entities. There is an opportunity today to acquire additional generation cheaply and, therefore, we should not delay in setting out clear market structure rules.”²⁷

The Decision also reflects SDG&E’s particular interest in putting their electricity customers on the hook for new gas-fired power plants:

“SDG&E observes that there is increasing interest and discussion of the possibility of a future utility role in ownership of generation, as at least a partial alternative to reliance on purchased power contracts with suppliers and exclusively non-utility ownership of future generation. It states that consideration of this would require clear-cut rules that would support a longterm utility role in serving a stable customer base. Benefits of utility ownership cited by SDG&E include the stability and permanence of a regulated utility, the ability

²⁶ Jan. 22, 2004 Commission Meeting audio transcript.

²⁷ D. 04-01-050, p.57

of the Commission to directly regulate the price, terms and quality of the generation service provided by the utility, the availability of a proven high-quality workforce.’²⁸

It is thus wholly ironic that SDG&E would refuse to answer RACE’s data request concerning forecasted rate base-able load for new gas fired generation when in R.01-10-024 they are most aggressively seeing to rate base construction or acquisition of new gas-fired generation at their electric ratepayers’ risk and expense - generation that, as we have shown, would artificially increase the demand for new LNG. Indeed, it is disingenuous for SDG&E to claim that electricity demand and gas reductions resulting from energy efficiency,²⁹ repowering,³⁰ and Community Choice Aggregation³¹ are “beyond the scope of this proceeding...and not reasonably calculated to lead to the discovery of admissible evidence,” and that this information “was not relied upon by SoCalGas and SDG&E in preparing its Phase I submittal...overbroad and unduly burdensome” - and thus refusing to answer the questions - when in fact SDG&E has a conflict of interest in refusing to divulge this data while the utility is actively advocating that it be allowed to rate base new gas-fired power plants.

²⁸ D. 0r-01-050, p. 57

²⁹ SoCalGas & SDG&E Gas Market OIR (R.04-01-025) 1st Data Request of RACE To SoCalGas and SDG&E, Response 14 & 15, March 11, 2004.

³⁰ SoCalGas & SDG&E Gas Market OIR (R.04-01-025) 1st Data Request of RACE To SoCalGas and SDG&E, Response 16, March 11, 2004.

³¹ SoCalGas & SDG&E Gas Market OIR (R.04-01-025) 1st Data Request of RACE To SoCalGas and SDG&E, Response 17, March 11, 2004.

Moreover, the Commission has elected to circumscribe rate base-able utility procurement and power plant acquisition. D.04-01-050, made on January 22, 2004 expressed a consensus that utility procurement will be circumscribed and prevented from over-purchasing power in such a manner that a “widespread adoption” of Community Choice Aggregation load departures from utility procurement must be included in all the electric utilities procurement plan forecasts, and a “phasing-in” of utility procurement was adopted to leave adequate time for regional load departures from bundled service to take place. The specific purpose of this circumscription was to resolve Community Choice issues related to utility procurement in order to avoid new stranded costs being imposed on departing communities.

First, D.04-01-050 recognizes the danger that utility procurement authorizations could result in imposing stranded costs on CCAs:

“Any long-term commitments brought to the Commission prior to adoption of the revised 2004 long-term plans should be reviewed within the context of the April filed plans and should make the “no regrets” showing required above. We share the concerns of the utilities, ratepayer interest groups, and market generators and retailers that with current legislation pending on Direct Access and a Core/Noncore market structure, as well as the prospect of departing load resulting from community choice aggregation under AB 117, the utilities should be careful to avoid the possibility of making long-term commitments that could become ‘stranded costs.’”³²

³² CPUC Decision 04-01-050, January 22, 2004, p. 92.

Second, D.04-01-050 attempts to prevent the imposition of stranded assets on CCAs. In particular, the decision limits the amount of power the utilities will buy and the speed at which they will buy it, leaving time for renewable resources to come on-line for sale, and preserving the ability of San Francisco, San Diego, Marin County, and dozens of other California cities seeking to escape utility procurement to aggressively develop renewable resources and energy efficiency technologies without being subjected to the non-bypassable surcharges. The January 22 plan will phase-in utility power contracts up until January 2008 rather than purchasing it all up-front, sets reserve margins at 15-17% rather than 19%, and authorizes 90% year-ahead power purchases to 5 months of the year rather than the whole year. Whereas the December 18 plan did not even mention Community Choice Aggregation, the adopted January 22 plan orders that the utilities model a Community Choice scenario for the next five years so that communities will have the data on which to pursue renewable energy and energy efficiency from alternative energy providers. Finally, the D.04-01-050 confirms that the utilities should “fill many of their immediate resource needs with shorter-duration contracts so as to avoid potential stranded costs for Community Choice Aggregation, and we expect the utilities to shape their portfolios accordingly”³³

Fourth, D.04-01-050 requires each utility’s long-term plans (to be filed this April) to provide a load forecast that *includes CCA* scenarios:

³³ CPUC D.04-01-050, p.65..

“The long-term plans should provide a range of estimates of future needs taking into account short-term and long-term drivers of need. The longterm plans should include expected load and energy requirements, not only at their expected, or median, levels, but also at the 95th percentile (that is, the one in-twenty years case) of expected need levels. We also expect the utilities to continue to consider a core/non-core scenario in their forecasts. The utilities should also supply a range of forecasts of load in their revised 2004 long-term plans in order to account for potential changes in community choice aggregation and direct access. This should include forecasts for a scenario involving the resumption of direct access and a separate scenario modeling *widespread adoption* of community choice aggregation.”³⁴

The required dimensions of the information that will be presented in the long-term plans of the electric utilities are as follows:

a. Load Scenarios:

CEC-IEPR Case – Base Case
Alternative Base Case
High Load Case (95th Percentile)
Community Choice Aggregation (CCA)
Core/Noncore Load Case
Other Load Forecast Cases

b. Portfolio Choice:

Preferred Mix of Assets including a mix of all of the resources and products authorized in this decision according to EAP loading order
Other Portfolio options as appropriate

c. Cost Level:

³⁴ CPUC D.04-01-050, p.94, also p. 192, p. 197.

Expected Cost Level
Cost estimated at 95th percentile
Other cost estimates as appropriate

D.04-01-050 also made reserve requirement decisions for CCAs, requiring CCAs (or their ESPs) to provide for their own reserve margins, by directing that each Load Serving Entity (LSE) within a utility's service territory (i.e., utility, Energy Service Provider (ESP) or Community Choice Aggregator) has an *obligation to acquire* sufficient reserves for its customer's load located; (2) *adopts* a reserve margin for LSEs of 15-17%; (3) *and directs* the LSEs to meet this 15-17% reserve requirement by no later than January 1, 2008, through a gradual phase-in including the establishment of interim benchmarks to become effective in 2005." ³⁵ D.04-01-050 determines that the Commission shall require each LSE to be directly responsible for acquiring its own reserves, and determines that this approach is legally supportable and consistent with the requirements of Pub. Util. Code § 394 (for ESPs) and AB117 (for Community Choice Aggregators).” ³⁶

7. Community Choice Aggregation to Reduce Demand for New Gas-Fired Generation

The above-referenced January 22, 2004 electric procurement decision's incorporation of

³⁵ CPUC D.04-01-050, p.15.

³⁶ CPUC D.04-01-050, p.47.

“widespread adoption” of Community Choice Aggregation in its forecasting scenarios reflects a truly widespread phenomenon of California communities seeking a real solution to the Energy Crisis.

Since 1999, dozens of California cities and counties, as well as their various associations, have passed resolutions requesting a Community Choice Aggregation law, lobbied the legislature and governor, won enactment of the law in 2002, and are in various stages of implementation. Inspired by the success of Community Choice in other states like Ohio, where Community Choice Aggregations make up 98% of the Direct Access market and have already broken clean energy records - and educated about the dangers of gas overdependency by the Energy Crisis - California’s CCA efforts are focused on achieving energy security through investments in energy efficiency and renewable energy far in excess of the state’s Renewables Portfolio Standard (RPS) law.

Among the communities pursuing Community Choice, San Francisco has adopted a plan and prepared implementation legislation to break away from PG&E’s electric procurement, and to solicit bids from electric service providers to serve its 800,000 residents and 32,000 businesses’ base load of 650 MW and peak load of 850 MW, while also taking 360 MW of this load off-grid with new investments in green distributed generation, energy efficiency and conservation, and large-scale wind farms as

components of the new service.

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San Francisco is not alone in pursuing Community Choice Aggregation. A group of municipalities have joined a California Energy Commission-sponsored project of the Local Government Commission in which Los Angeles County, Oakland, Marin County, Vallejo, Pleasanton, Richmond, Beverly Hills, West Hollywood, Torrance, Emeryville, and others, representing over two million residents, will seek to implement Community Choice. Advised by Navigant Consulting, the CEC CCA group is seeking to use Community Choice Aggregation to depart from electric utility procurement and solicit new providers to exceed even the new expedited schedule for Renewables Portfolio Standard Implementation, achieving a 40% RPS by 2017, and will incorporate aggressive energy efficiency and conservation measures in portfolio planning in the early years in order to get to fully renewable resources cost-effectively.³⁸

With aggregations including millions of electricity accounts seeking to leave electric

³⁷ Ordinance 040236 “establishing a Community Choice Aggregation Program in accordance with California Public Utilities Code Sections 218.3, 331.1, 366, 366.2, 381.1, 394, and 394.25, allowing San Francisco to aggregate the electrical load of electricity consumers within San Francisco and to accelerate the introduction of renewable energy, conservation and energy efficiency into San Francisco's portfolio of energy resources. Supervisors Ammiano, Maxwell, Gonzalez presented.” RECEIVED AND ASSIGNED to City Services Committee February 24, 2004.

³⁸“Community Choice Aggregation Pilot Project Proposal to the California Energy Commission,” Local Government Commission, July, 2003; interview with Cynthia Wooten, Navigant Consulting, March 20, 2004.

utility procurement as early as 2005-6, in order to dramatically decrease their dependence on natural gas-fired generation - and many others behind them³⁹ - it is not clear whether previously forecasted additions of added new gas-fired electrical capacity will actually be built. The impacts on the ability of electric utilities to rate base power purchase contracts or new gas-fired generation construction, and thus also on the forecasted rate base-able gas load, is likely to decrease California's demand for natural gas below current projections. As with power plant replacements, RPS law acceleration and energy efficiency, Community Choice could eliminate all projected increases in natural gas demand in the state.

Respectfully,

Paul Fenn
Ratepayers for Affordable Clean Energy

³⁹ The Southern California Cities Joint Powers Consortium, representing ten cities and 400,000 customers, is seeking to depart from Southern California Edison electric procurement and aggressively develop energy efficiency. The City of San Diego has recently made significant commitments to renewable resource development, and is involved in discussions of a potential Joint Powers Agency pursuant to the Community Choice law, AB117. A dozen or so regions have recently formed Regional Energy Offices to pursue local administration of energy efficiency programs and/or aggregate pursuant to AB117.