Dissent of Commissioner Mark J. Ferron on Resolution E-4471 regarding Calpine's Sutter Energy Center on March 22, 2012.

I share the concern of the California Independent System Operation (CAISO) regarding system reliability: although the Commission's own determination as to the need for renewable integration (which Sutter might be able to provide…) was inconclusive, the CAISO has determined that under certain high load scenarios, the Sutter plant may be needed starting in 2018. This scenario is particularly true if the state's policy of retiring the Once Thru Cooled coastal plants occurs. At this point, we just do not know enough but it seems that the CAISO is being ultra-conservative. While I may question their assumptions or approach, I respect their conclusion.

I also agree that it seems counter to the public interest for a relatively modern generating plant to have to shut down because it can't find immediate revenues or other funding sources to support its on-going expenses. Power plants are long term assets, and we want a market that can reward long term infrastructure build out. If market forces dictate the closing of this plant, it would have a devastating impact on the people of Sutter County, both the direct employees of the plant and the local economy overall.

However, the problem facing the Sutter plant is system wide: it appears we may have a "hole" in our market and planning structure whereby there are insufficient economic incentives for generating plants which provide useful flexible attributes to cover the cost of maintaining these plant in operation.

I believe that the Commission, in consultation with the CAISO, needs to immediately work to create a coordinated approach across our own Resource Adequacy and Long Term Procurement Planning procedures and the CAISO's system and reliability planning process to address this market shortcoming.

But it will take some months to agree on how this new approach will work, and even longer to design and execute the plan. The Sutter plant has an immediate need for revenues. Calpine, the plant's owners, has stated at FERC and with CAISO that it needs $17 million dollars for 2012 - - the cost cap specified in the resolution - - in order to keep from shutting its doors. I am sympathetic to Calpine's predicament.

It may be reasonable to spend a certain amount of ratepayer money as "insurance" to keep the Sutter plant operational while the new coordinated market approach is developed. However, as with many issues, the Commission is charged with determining how much money is fair and reasonable to spend on such insurance, as well as the longer term consequences of this ad hoc intervention.

After reviewing the market prices for alternate resources available to the utilities to meet their current Resource Adequacy (RA) needs, I do not see how the utilities will be achieving least cost procurement of RA at anything close to a price of $17 million that Calpine says is needed. Nor do I see any other way for Calpine to get their $17 million that is a good value for the ratepayer. Simply put, I think that the insurance premium contemplated in the Resolution is too high.

We have heard it argued that if we do not pass this resolution today, the Sutter plant would be shuttered and sold off for spare parts or scrap tomorrow. I don't share those apocalyptic visions.

First, CAISO has already asked FERC to allow a Capacity Procurement Mechanism payment to Sutter for backstop capacity. While I understand the desire to keep the resolution of this California-specific issue here within the CPUC, this approach would have the practical implication of having the cost of the backstop capacity spread across the entire state. I believe this is a more appropriate mechanism than an above market RA contract borne on the back of ratepayers in investor owned utility territory only.

Secondly, even if FERC were to deny this backstop payment, the plant still has significant value as an operating asset in excess of its scrap value. I am fairly confident that Calpine, or some other future operator, will find a way to keep the plant relevant in the California energy market going forward.

We must also be mindful that there is a wider universe of similar vintage plants in similar economic situations, and if we agree to the kind of ad hoc intervention contemplated by the Resolution, then we may find a long queue of similar requests. I believe that if we attempt to assist Calpine with their Sutter predicament at the high price in the Resolution, we would be retarding the development of a longer-term market solution, and at an unreasonable short-term cost to ratepayers.

This is a difficult decision. However, as with many issues, the Commission is charged with balancing the narrow potential needs of one market player with broader market and policy goals. If it is true that Sutter cannot survive economically in California without this interim payment - - something that I do not believe is the case - - then that is a reality we have to face. Ultimately, I cannot say in good conscience that this Resolution represents good value for the ratepayer or that it sets a good precedent from a policy standpoint.

With that, I will be voting no on the proposed Resolution.

Dated March 22, 2012.

Mark J. Ferron
Commissioner