

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider
Program Refinements, and Establish Annual
Local Procurement Obligations.

R.11-10-023
(Filed October 20, 2011)

**COMMENTS ON SCOPE, SCHEDULE, AND ADMINISTRATION OF
ORDER INSTITUTING RULEMAKING
BY THE ALLIANCE FOR RETAIL ENERGY MARKETS**

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I. INTRODUCTION

The Alliance for Retail Energy Markets (“AReM”)¹ submits these comments in accordance with the *Order Instituting Rulemaking* (“OIR”) issued on October 27, 2011 . The OIR sets this date for comments on the proposed scope , schedule, and administration for the proceeding and recommended priorities with respect to appropriate refinements to the Resource Adequacy (“RA”) program and local capacity requirements (“LCR”) beginning with the 20 13 compliance year. AReM represents Electric Service Providers (“ESPs”), and each of its members is a respondent to this proceeding.

II. GENERAL COMMENTS ON THE OIR

AReM agrees with the Commission that it is prudent and necessary to have an ongoing proceeding to evaluate on an annual basis the appropriate level of LCRs and to consider whether there should be changes and/or refinements to other aspects of the RA program. The list of *Candidate Issues and Topics Identified by the Energy Division* , included as Appendix A of the

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

OIR, presents important issues for consideration, several of which will significantly impact California's RA market. AReM does not object to inclusion of any of the issues listed in Appendix A. However, as noted in the following sections, AReM does recommend specific changes to the wording of certain sections of Appendix A – changes that are intended to clarify the scope of work associated with those issues. AReM also recommends the consideration of several additional issues in this proceeding.

III. SUGGESTED MODIFICATIONS TO APPENDIX A

A. Coincident Adjustment Factor (Appendix A, Issue 4)

Appendix A, Issue 4 states:

Adjustments to the coincidence adjustment – In D.11-06-022, the Commission deferred to this proceeding consideration of a proposal by the Alliance for Retail Energy Markets, in order to study the issue more.²

With respect to this issue, AReM submitted a proposal for revisions to the Coincident Adjustment Factor (“CAF”) in the previous RA rulemaking (R.09 -10-032). The proposal, once adopted, will ensure a more equitable allocation of RA requirements among load -serving entities (“LSEs”), and as a result, avoid unfair cost-shifting from utility bundled customers to direct access customers that is inherent in the current approach.³ Decision (“D.”) 11 -06-022 found significant merit in the proposal, but directed additional technical analysis by the Energy Division and the California Energy Commission (“CEC”) before AReM’s proposal could be implemented.⁴ The Decision explicitly directed the Energy Division and CEC staff to “work to refine this concept over the course of the next year and provide a recommendation to the

² See OIR, Appendix A, page 1.

³ See, *Motion of the Alliance for Retail Energy Markets to Add Issue to Phase 2 Scope*, R.09-10-032, November 30, 2010.

⁴ D.11-06-022, pp. 15-17.

Commission in next year's RA proceeding for further consideration and possible implementation in 2013."⁵

AReM is appreciative that the OIR has specifically stated that this issue is to be considered in this proceeding, but believes that the scope as described in the OIR should be modified to make it clear that this proceeding will go beyond mere study of the issue and indeed is intended to result in implementation of changes to the coincident adjustment factor, as follows:

Adjustments to the coincidence adjustment – In D.11-06-022, the Commission deferred to this proceeding consideration of a proposal by the Alliance for Retail Energy Markets, in order to study the issue more .
These studies should be completed such that appropriate modifications to the coincident adjustment factor can be implemented for the 2013 compliance year.

AReM is prepared to work with the Commission staff to ensure this outcome and urges that this be treated as a high priority issue for Phase 1.

B. Standard Capacity Product (Appendix A, Issue 2)

Appendix A, Issue 2 states:

Standard Capacity Product (SCP) – D.09-06-028 deferred final consideration of the SCP to this proceeding. Further, the Federal Energy Regulatory Commission has directed the California Independent System Operator (CAISO) to work toward extending the SCP to currently exempted resources. This proceeding will consider adoption of the SCP and any associated changes to the RA program.⁶

The issue referenced in the excerpt above – extending the SCP to currently exempted resources – is important. However, there is an additional important issue with respect to SCP that must be addressed in this proceeding. Specifically, AReM has repeatedly proposed in the Commission's RA proceedings that the best approach to facilitate the development of a commercially-viable Standard Capacity Product ("SCP") is for the Commission to eliminate its

⁵ D.11-06-022, p. 17.

⁶ See OIR, Appendix A, page 1.

current requirement that LSEs replace System RA capacity during scheduled outages pursuant to Section 3.1 of D.06 -07-031. AReM’s position has been that the California Independent System Operator (“CAISO”) should be responsible for determining the appropriate System RA replacement requirements (if any), which can then be incorporated into its Tariff for application to RA suppliers. The proposed Phase 2 decision in R.09 -10-032 agreed that the replacement obligation should be included in the CAISO tariff rather than in the Commission’s RA rules, and had initially removed the LSE replacement obligation. However, that initial ruling was later revised to continue to impose the replacement obligation in the Commission’s RA rules – but only for the 2012 RA compliance year.⁷ That decision (D.11-06-022) further directed the Energy Division to “work with the CAISO and stakeholders to develop an alternate LSE replacement rule which can be implemented by the start of the 2013 RA compliance year.”⁸ This long - standing critical issue does not appear on the Candidate List of Issues in Appendix A of the OIR and should be added.

There can be no justification for further delay. The Energy Division originally recommended this change in Phase 2 workshops for R.08 -01-025 held in January 2009 as a necessary modification to implement the SCP – two RA rulemakings ago.⁹ Further, the CAISO has had more than ample opportunity to develop an alternate replacement rule, but has not yet done so.¹⁰ The CAISO’s failure to do its work on this subject is inexplicable, and the Commission should force its hand by eliminating the obligation. AReM therefore recommends that this issue be treated as high priority for Phase 1, and that the OIR be modified to as follows:

⁷ D.11-06-022, p. 32.

⁸ *Ibid.*

⁹ *Energy Division Workshop Report, R.08-01-025, Phase 2 Workshops*, February 6, 2009, p. 11.

¹⁰ AReM is unaware of any CAISO activity to address this issue since the issuance of D.11-06-022.

Standard Capacity Product (SCP) – D.09-06-028 deferred final consideration of the SCP to this proceeding. Further, the Federal Energy Regulatory Commission has directed the California Independent System Operator (CAISO) to work toward extending the SCP to currently exempted resources. This proceeding will consider adoption of the SCP and any associated changes to the RA program. *In addition, this proceeding will implement that directive in Decision 11-06-022 to eliminate the replacement obligation associated with scheduled outages.*

C. The CAISO’s request to include non-generic capacity requirements in RA must be fully vetted and should not be a priority for Phase 1 of this proceeding (Appendix A, Issue 5)

Appendix A, Issue 5 is stated as follows:

Review the plan for a non-generic capacity procurement requirement process to add resource operational characteristics such as regulation and ramping “load following” capabilities into the resource adequacy procurement requirements. CAISO will provide an annual cycle of studies and reports to inform load-serving entities’ resource adequacy procurement. In addition, CAISO proposes that the Commission expand the five month year-ahead showing to a full years showing for the year-ahead procurement to support the evaluations and assessments of needed non-generic capacity.¹¹

AReM understand that there are complex issues associated with integration of renewables and the impact that such resources have on grid operations, and there is little dispute that higher levels of renewable energy on the grid will require the development of new grid management tools and services. There are several initiatives already underway at the CAISO that are focused on the operational characteristics that are needed to integrate the anticipated large increase in renewable energy resources. In addition, the CAISO has already filed with the Federal Energy Regulatory Commission (“FERC”) to expand its backstop procurement and exceptional dispatch authority to include the operational characteristics of specific units as additional criteria that it will use in selecting resources when it exercises its backstop procurement and exceptional

¹¹ See OIR, Appendix A, page 1.

dispatch authority.¹²

It is not exactly clear to AReM how the CAISO's request that the Commission consider an incremental non-generic RA requirement as part of this proceeding fits in with these other initiatives and the authority it has requested from FERC, although it appears that including it here is duplicative of what is going on elsewhere. AReM is not suggesting at this time that this issue should be deleted from this proceeding, but AReM does urge the Commission to make sure that its consideration of this issue pays close attention to what is going on in other venues on this same topic to ensure there is no unnecessary duplication of effort. Moreover, given all these separate venues that appear to be addressing the same issue, AReM does not believe that this should be a high priority issue for this proceeding. AReM suggests that the following changes to the wording in the OIR with respect to this issue will serve to better define the scope of this effort:

Evaluate ~~Review~~ the plan for a non-generic capacity procurement requirement process to add resource operational characteristics such as regulation and ramping "load following" capabilities into the resource adequacy procurement requirements **to determine whether these operational characteristics are best met by implementing an annual incremental non-generic capacity requirement based on an** ~~CAISO will provide an~~ annual cycle of **CAISO** studies and reports to inform load-serving entities' resource adequacy procurement. In addition, CAISO proposes that the Commission expand the five month year-ahead showing to a full years showing for the year-ahead procurement to support the evaluations and assessments of needed non-generic capacity

IV. RECOMMENDED ADDITIONAL ISSUES

There are several important issues that should be addressed in Phase 1 of this proceeding that were not explicitly identified in the OIR or in Appendix A, as follows:

¹² See *Update to Capacity Procurement Mechanism and Exceptional Dispatch* filing made by the CAISO on 12/1/201, in ER11-2256.

A. Sales by Investor -Owned Utilities of Excess Local RA Capacity to Other Load - Serving Entities

The investor-owned utilities (“IOUs”) own or control most of the Local RA capacity. In addition, as has been well documented in past RA proceedings, the LCRs that LSEs must meet require procuring more than 70% of the available RA capacity in most of the Local Areas.¹³ Thus, the IOUs are often the only available supplier for ESPs in certain Local Areas, such as San Diego and LA Basin. In D.06 -06-064, the Commission encouraged the IOUs to consider “least cost/best fit” and sell their excess to other LSEs. The current IOUs’ approaches for such sales disadvantage the ESPs and impose risk of non-compliance. AReM urges the Commission to add this issue to Phase 1 to consider requirements that would ensure the IOUs employ non-discriminatory and timely practices for sales of Local RA capacity to ESPs.

B. The Impact of the Use of Back-up Generation on the RA credit available to Demand Response Resources Must be Resolved in this Proceeding

Conclusions of Law 4 and 5 of Decision 11-10-003 stated as follows:

4. There is not sufficient information in the record to adopt specific RA rules regarding fossil-fuel back-up generation.
5. It is reasonable to adopt as a policy statement that fossil-fuel emergency back-up generation resources should not be allowed as part of a demand response program for RA purposes, subject to rules adopted in future RA proceedings.¹⁴

The OIR states that this proceeding will address the demand response issues referred to this rulemaking from Decision 11-10-003. However, Appendix A does not specifically include the resolution of the demand response/back-up generation issue raised in Decision 11-10-003.

¹³ See, for example, *Comments of the Alliance for Retail Energy Markets on 2009 Local Capacity Requirements and Phase 1 Proposals*, R.08-01-025, May 12, 2008, p. 3.

¹⁴ See Decision 11-10-003, page 33.

AReM requests that this issue be considered and resolved as a Phase 1 priority issue in this proceeding.

C. Allocation of RA benefits from the Reliability-based Demand Response Program

In Decision 11-06-22, the Commission addressed an important issue with respect to the Reliability-based Demand Response Program (“RDRP”) that had been raised by Enernoc:

EnerNOC raised a valid issue regarding the allocation of the cap within each IOU service territory (i.e. Transmission Access Charge area). Neither D.10-06-034 nor the settlement adopted by that decision explicitly addressed this issue. However, this issue is outside the scope of this proceeding. We will address this issue in the 2013 RA proceeding.¹⁵

The OIR states that this proceeding will address issues deferred from Decision 11-06-22, but does not specifically include this matter on Appendix A. AReM requests that this issue be considered as a resolved as a Phase 1 Priority issue.

V. SCHEDULING AND ADMINISTRATIVE ISSUES

AReM has no objection at this time to the proposed schedule contained in the OIR, or to the proposed rate-setting categorization. At this time, AReM does not believe that hearings will be necessary in this proceeding.

VI. CONCLUSION

AReM appreciates the opportunity to submit these comments and respectfully requests that the Commission make the requested changes to scope and establish the priorities recommended herein. AReM looks forward to working with the Commission and Staff on these important issues.

¹⁵ See Decision 11-06-022, page 57.

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan J. Mara".

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