

**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.

Rulemaking 11-10-023  
(October 20, 2011)

**COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION ON THE SCOPE OF THE PROCEEDING**

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Dated: November 7, 2011

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ASSOCIATION ON THE SCOPE OF THE PROCEEDING**

The Order instituting this proceeding provides for initial comments on preliminary matters pertaining to the scope, schedule, and administration of the proceeding. The Independent Energy Producers Association (IEP) identifies its interest in this proceeding and offers its comments on the issues that should be included within the scope of this proceeding.

**I. IEP'S INTEREST IN THIS PROCEEDING**

IEP is a nonprofit public benefit corporation formed under the laws of the State of California to encourage the development and use of independent electric resources. Its members own and operate roughly 20,000 megawatts of electric generation capacity in California, including about 5,000 megawatts of renewable and alternative generating resources. IEP has been representing the interests of the developers and operators of renewable and other independent electricity resources before the Commission, other agencies, the Legislature, and the courts since 1982.

As the trade association for many of the independent power producers providing electric energy and capacity to California consumers, IEP has a longstanding interest in the Resource Adequacy program and in ensuring its efficient operation.

## **II. ISSUES TO BE CONSIDERED IN THIS PROCEEDING**

IEP offers the following comments on issues that should be included within the scope of this proceeding.

### **A. The CAISO's Non-generic Capacity Proposal**

On November 30, 2010, the California Independent System Operator (CAISO) proposed to add an issue to Phase 2 of the previous Resource Adequacy (RA) proceeding, Rulemaking (R.) 09-10-032. The CAISO proposed to add non-generic capacity requirements, and specifically operational characteristics such as regulation and ramping "load following" capabilities, into the RA procurement requirements. The proposal was not taken up in Phase 2 of R.09-10-032, but on September 7, 2011, Assigned Commissioner Ferron ruled that the issue would be addressed in this proceeding.

IEP agrees that this proposal and the concerns underlying it should be considered in this proceeding. The CAISO's proposal arose from its concerns about maintaining the reliability of the grid as increasing amounts of variable energy resources, particularly sun- and wind-powered resources, are added to the resource base. In this proceeding, the Commission should investigate those concerns and determine whether or not the RA program provides an appropriate opportunity to create mechanisms to mitigate any of the CAISO's concerns.

Because a large amount of capacity from variable energy resources is expected to begin commercial operation in 2011 and 2012, this issue should be considered in Phase 1 of the proceeding.

**B. Aligning the Local Capacity Waiver Trigger with the CAISO’s Capacity Procurement Mechanism**

The procurement of local RA capacity is subject to a “waiver trigger” that allows a load-serving entity (LSE) to request a waiver of its obligation to procure local RA capacity if it cannot obtain capacity at a price less than the waiver trigger. The waiver trigger was originally adopted to counter the possibility that a single entity might have market power in a local area and would then demand above-market prices for local RA capacity.

The original waiver trigger level of \$40/kW-yr was derived from an estimate of the cost of capacity (\$73/kW-yr) developed in a settlement of a complaint before the Federal Energy Regulatory Commission (FERC), minus the assumed energy revenues that the facility could earn by selling energy into the market (\$33/kW-yr).<sup>1</sup> The level of the waiver trigger has not been adjusted since it was first adopted in June 2006.

The local RA waiver trigger co-exists with mechanisms that enable the CAISO to procure backstop capacity needed to maintain the reliability of the electric grid. LSEs’ obligation to purchase local RA capacity overlaps with the purposes of the CAISO’s backstop capacity mechanisms, and the two programs needed to be coordinated to ensure that market signals are aligned and provide the proper incentives.

The local RA program and the CAISO’s backstop capacity authority were aligned at their inception, but the price of backstop capacity for the CAISO’s mechanism has been revised to reflect changing conditions, while the waiver trigger has not. The settlement on which the original waiver trigger was based led to the Reliability Capacity Services Tariff (RCST), which was approved by FERC and served as the CAISO’s backstop capacity mechanism until it was replaced by the Interim Capacity Procurement Mechanism (ICPM). The ICPM, in turn, will

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<sup>1</sup> See D.06-06-064, p. 72 n.20.

be succeeded by the Capacity Procurement Mechanism (CPM). The details of the CPM are currently the subject of settlement discussions, and those details, including the backstop capacity price, are not yet publicly available. IEP expects that the CPM settlement will be presented to the CAISO Board for approval and ruled on by FERC well before the May 2012 target date for the Phase 1 proposed decision.

Based on the prices established for the ICPM and industry trends since 2006, IEP believes that the price of backstop capacity established under the CPM will exceed the current waiver trigger level of \$40/kW-yr. If the price of backstop capacity procured by the CAISO exceeds the level of the local capacity waiver trigger, the result would be a market disjuncture that would lead to unnecessary excess costs for California ratepayers.

For example, if the price for backstop capacity under the CPM is \$55/kW-yr, \$15 higher than the current waiver trigger, an LSE could seek and obtain a waiver if local RA capacity was available only at a price of \$42. If the waiver is granted, the LSE is relieved of its obligation to secure local capacity, but the physical need for local capacity to meet the system's reliability requirements is not waived. At that point, with the LSE excused from obtaining the needed local capacity, the CAISO's obligation to maintain the reliability of the grid might compel it to step in to obtain the same local capacity at the higher CPM price of \$55, and ratepayers would pay \$13 more than necessary for the same capacity.

Moreover, a gap between the waiver trigger and the CPM level can create a perverse incentive for an LSE to seek a waiver rather than pay directly for the capacity. If the LSE procures the local RA capacity at \$42, the LSE and its retail customers must bear the cost of the capacity. On the other hand, if the same capacity is procured by the CAISO under the CPM,

IEP understands that the resulting costs may be spread throughout the CAISO system, and the cost to the individual LSE and its customers would be greatly reduced.

To avoid these incongruous and inefficient outcomes, in this proceeding IEP will propose to restore the alignment between the local RA waiver trigger and the CAISO's backstop capacity mechanism. IEP will propose to set the level of the local RA waiver trigger at no less than the base price for backstop capacity established under the CPM as approved by FERC. At the appropriate time (presumably during the Phase 1 workshop and comment process scheduled to begin this month), IEP will make a detailed presentation of its proposal. At this stage of the proceeding, however, it is crucial for the Assigned Commission to rule that the level of the local RA capacity waiver trigger is an issue in Phase 1 of this proceeding.

Because FERC is likely to approve the CPM settlement in the first quarter of 2012, this issue should be taken up in Phase 1 of this proceeding.

**C. Multi-year Procurement of RA Capacity**

As an additional issue for consideration in this proceeding, IEP recommends that the Commission should investigate whether there is a gap in the current overall energy market design that requires the creation of new or supplemental mechanisms to enable the LSEs to purchase needed RA capacity on a multi-year basis. Currently, LSEs have the ability to purchase multi-year RA capacity but do so at some risk, because the local RA capacity requirements vary from year to year, and market and grid conditions can change rapidly and unexpectedly. For its part, the CAISO has the ability to procure needed capacity for up to two years, but there may be both financial and operational advantages to developing mechanisms that promote longer-term procurement of RA capacity. In this proceeding, the Commission should investigate whether those potential advantages exist and, if so, what are the best mechanisms for realizing those advantages.

At this point, it is not clear whether this issue requires resolution by mid-2012.

For that reason, IEP concludes that this issue may be considered as part of Phase 2 of this proceeding.

### **III. CONCLUSION**

IEP respectfully urges the Assigned Commissioner to issue a Scoping Memo that includes consideration of the CAISO's non-generic capacity proposal and the local RA capacity waiver trigger in Phase 1 of this proceeding, and includes an investigation of the need for mechanisms to promote longer-term procurement of RA capacity in Phase 2 of this proceeding.

Respectfully submitted this 7th day of November, 2011 at San Francisco, California

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