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)

REPLY COMMENTS OF THE WESTERN POWER TRADING FORUM

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November 21, 2011

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Pursuant to the schedule set forth in the October 20, 2011, Order Instituting Rulemaking ("OIR") establishing this proceeding, the Western Power Trading Forum ("WPTF")[1] provides these reply comments addressing the opening comments on issues to be considered in this proceeding and WPTF's perspective on their relative priorities.

I. OPENING REMARKS

The Resource Adequacy ("RA") program has been in place since June 2006. Most of the resource counting rules, resource obligation requirements and the metrics for determining the reserve requirement for LSEs were developed in 2004 and 2005, during the initial development of the resource adequacy program. On an annual basis, there has been a proceeding to establish the Local Capacity Requirements for the next year, and to address whether specific modifications to the RA program are warranted. WPTF supports this annual review process as a way for all interested parties to bring to the Commission's attention problems with the RA programs and idea for improvements to it. This proceeding provides another opportunity to consider whether

[1] WPTF is a California non-profit, mutual benefit corporation dedicated to enhancing competition in Western electric markets in order to reduce the cost of electricity to consumers throughout the region while maintaining the current high level of system reliability. WPTF actions are focused on supporting development of competitive electricity markets throughout the region and developing uniform operating rules to facilitate transactions among market participants.

elements of the RA program are in need of modification in light of ongoing experience with the program.

WPTF's comments are set forth from the perspective of market participants that are active in ongoing matters at the California Independent System Operator ("CAISO") and this Commission dealing with RA-related matters. Our intent is to highlight improvements that are required to increase the efficiency and effectiveness of the RA program so that it can achieve its intended aim. In considering the issues in this proceeding, our starting point is the Commission's stated goal for the program:

> First, the Commission seeks through RAR to ensure that the infrastructure investment required for reliability actually occurs. Second, the Commission seeks to ensure that the generation capacity made possible through that investment is available to the grid at the times and at the locations it is needed. Third, the Commission intends that capacity must be sufficient for stressed conditions, i.e. sufficient generation should be available under peak demand conditions even when there are unexpected outages.[2]

Achieving these goals will require a cooperative effort among staff, utilities and all other parties. It is therefore extremely important that the Commission determine its priorities and proceed accordingly.

II. REPLY COMMENTS

WPTF offers the following reply comments in response to the November 7, 2011 opening comments by various parties.

A. The Commission Should Re-Evaluate the Waiver Trigger Issue in Phase 1

Both NRG Energy, Inc. ("NRG")[3] and the Independent Energy Producers Association ("IEP")[4] offered opening comments on the waiver trigger issue. As background, under current

[2] D. 05-10-042, at pp. 7-8

[3] NRG Opening Comments, at pp. 4-9.

[4] IEP Opening Comments at pp. 3-5.

RA rules, a load-serving entity ("LSE") can seek a waiver of its local RA procurement obligation under certain conditions if it can demonstrate that it either received no bids; received no bids for an unbundled RA capacity contract of under $40 per kW-year or for a bundled capacity and energy product of under $73 per kW-year; or received bids below these thresholds but such bids included what the LSE believes are unreasonable terms and/or conditions, in which case the waiver request must demonstrate why such terms and/or conditions are unreasonable.[5] Both NRG and IEP recommend that the Commission consider in Phase 1 whether the current waiver trigger price of $40/kW-year is appropriate for 2013 and beyond.

Both parties note that the level of the waiver trigger has not been adjusted since it was first adopted in June 2006. NRG recommends that the Commission should reexamine the "very stale $40/kW-year waiver trigger price,"[6] saying that "the data set relied on in D.11-06-022 to reject reconsideration of the waiver trigger is too limited, includes price data irrelevant to assessing the reasonableness of the current waiver trigger for local capacity requirements, includes data taken from a period in which the waiver trigger price influenced contract pricing, and does not include GHG compliance costs."[7] Furthermore, NRG points out that the Commission, the CEC, FERC and the CAISO have all recognized the existing waiver trigger level completely fails to reflect the cost of new capacity.

IEP notes that the price of backstop capacity paid by the CAISO pursuant to its capacity backstop procurement authority has been revised to reflect changing conditions, while the waiver trigger has not. It then states that, "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

[5] *See*, D.06-06-064, pages 71- 74.

[6] NRG Opening Comments, at p. 4.

[7] Id at p. 6.

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."[8]

WPTF has raised the waiver trigger issue in the past in its own comments. Specifically, WPTF advocated in its comments in the previous RA docket, R.08-01-025,[9] that the Commission eliminate any specified dollar trigger value as a criteria for seeking RA compliance waivers in order to avoid the situation where the waiver trigger becomes a *de facto* floor for RA pricing (from the perspective of load serving entities) and a *de facto* cap for RA pricing (from the perspective of suppliers). Thus, WPTF recommended that the Commission should focus on the following sub-issues:

- Waivers should be considered on a case-by-case basis, without a presumption about what the acceptable price levels are. This will allow the examination of the waiver requests to more fully evaluate the overall reasonableness of an LSE's efforts to achieve compliance and the market response to its procurement efforts relative to the particular product that the LSE sought. Providing for a case-by-case waiver analysis allows for the consideration of market conditions and removes the need to reevaluate the waiver trigger continuously with market conditions. In other words, since prices for capacity will rise and fall with market conditions, a static waiver price trigger is inappropriate and likely to undermine investment signals in the very locations where investment is needed.
- To the extent the Commission wishes to retain a specific trigger as a factor considered in the waiver request, the Phase 2 proceeding must reconsider whether

[8] IEP Opening Comments, at p. 5.

[9] *See,* January 9, 2009, Phase 2 Proposals of the Western Power Trading Forum, at pp. 10-12 ("WPTF R.08-01-025 Comments").

the current $40 trigger is reflective of actual market conditions. WPTF believes that having a fixed number when the market is so dynamic is simply disruptive to the process of transacting for RA capacity. Furthermore, a fixed price for a waiver trigger is highly problematic in a locational capacity market, and there are marked differences in the pricing applicable to the various defined locations, particularly for the defined locations that are capacity deficient.

- To the extent the Commission believes that a static, specified waiver trigger value is needed in order to mitigate market power, parties should be permitted to make alternate proposals as to what that value should be for consideration in Phase 2 of the proceeding.

WPTF further indicated its belief that waivers generally are bad for the market and disruptive to investment.

> Fundamentally, resource deficient local areas do not and will not have the required price signals for investment - whether generation, transmission or demand side resources, so long as the price does not reflect the need for new resources. This statement is supported by the continued deficiency in some local areas that has persisted for years. Under the current bilateral market, the Commission's concern about the potential exercise of market power in local areas is justified. Recognizing that some form of price review is required in the current market until such time as a capacity market allows for market oversight, the Commission should allow for a waiver on a case-by-case basis, after the LSE has proven due diligence in meeting the requirement. The Commission can then consider market conditions and whether a waiver is warranted. A waiver trigger price simply undermines the market and investment."[10]

In summary, WPTF concurs with and supports the recommendations by NRG and IEP that the current waiver trigger process should be revaluated in Phase 1 of this proceeding.

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[10] WPTF R.08-01-025 Comments, at p. 12.

B. WPTF Supports the BrightSource Procedural Recommendation

BrightSource recommends that the Commission commence Phase 1 and Phase 2 of this proceeding in parallel, to provide early guidance on the more complex longer-term issues associated with the changes to the RA program. Specifically, BrightSource recommends that, "An early Phase 2 Scoping Order and commencement of workshops on Phase 2 issues in parallel with commencement of Phase 1 would avoid deferral of important issues that will require significant time to address."[11] WPTF concurs with the BrightSource approach. There are a number of major issues under consideration in this proceeding. They will have significant impacts on the conduct of the RA program, the availability of RA capacity and its pricing. The BrightSource recommendation recognizes this and appropriately proposes a procedure for examining the issues in both phases on a parallel basis. WPTF supports this recommendation, with the additional observation that the concept of parallel proceedings effectively means that all issues should be considered in a single Phase 1.

C. The Issue of Seasonal Local Capacity Requirements Should be Deferred

Both the Division of Ratepayer Advocates ("DRA") and San Diego Gas & Electric Company ("SDG&E") resurrect the issue of seasonal local capacity requirements. DRA notes that Issue 1 is the determination of the LCR obligations for LSEs and recommends that this should be expanded to include the issue of "whether there should be a seasonal LCR for the San Diego area."[12] SDG&E recommends the Commission include a placeholder for this topic in the

[11] BrightSource Opening Comments, at pp. 3-4.
[12] DRA Opening Comments, at pp. 2-3.

final scope of Phase 1,[13] while EnerNOC and Comverge recommend that this issue be deferred to Phase 2.[14]

WPTF does not support the inclusion of seasonal LCR in this proceeding, whether in Phase 1 or Phase 2. Proposals to have seasonal LCRs have been examined previously and the Commission has declined to consider them because it determined that it provided no incremental improvement to the RA program. Moreover, as DRA has acknowledged, "The CAISO has opposed seasonal LCR for San Diego, stating that additional time consuming analysis would be required to determine monthly LCR."[15] WPTF basically believes that there is simply no need to revisit this topic again.

II. CONCLUSION

WPTF respectfully submits these reply comments and requests that the Commission adopt the recommendations contained herein.

Respectfully submitted,

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[13] SDG&E Opening Comments, at p. 5.

[14] Joint Opening Comments of EnerNOC Inc. and Comverge, Inc., at p. 5.

[15] DRA Opening Comments, at p. 3.