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)

PROPOSALS ON PHASE 1 ISSUES BY THE ALLIANCE FOR RETAIL ENERGY MARKETS

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I. INTRODUCTION

The Alliance for Retail E nergy Markets ("AReM") [1] submits these proposals on Phase 1 issues in accordance with the *Phase 1 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* ("Scoping Memo ") issued on December 27, 2011 . The Scoping Memo set this date fo r interested parties and staff of the California Public Utilities Commission ("Commission") to submit specific proposals on the issues to be decided in Phase 1 of this proceeding.

II. AReM PHASE 1 PROPOSALS AND COMMENTS

In addition to resolving issues associ ated with the 2013 Local Capacity Requirements ("LCR"), the Scoping Memo has included seven issues in Phase 1 associated with refinements to the Resource Adequacy ("RA") program. AReM's proposals and comments on each of these issues, if any, are as follows:

[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 nece ssarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

A. Standardized Capacity Product ("SCP") implementation for demand response resources

The Scoping Memo states that Phase 1 of this proceeding will expand the SCP to "develop availability and performance provisions for demand response resources."[2] AReM does not have specific proposals in regard to SCP for demand response resources. However, AReM notes that the Scoping Memo does not include the issue of the SCP and the current replacement obligation for load-serving entities ("LSEs") as required by Decision ("D.")11-06-022.[3] In D.11-06-022, the Commission decided to continue the current LSE replacement obligation, but *only for the 2012 RA compliance year* while Energy Division continued to "work with the CAISO and stakeholders to develop an alternate LSE replacement rule" to be implemented by the start of the 2013 RA compliance year.[4] Because no discussion of this issue has been included in the scope of this proceeding, AReM presumes that the LSE replacement obligation is eliminated for 2013 and requests that the Commission make this clear in its Phase 1 decision.

B. Maximum cumulative capacity (MCC) for demand response resources

AReM does not have a proposal on this issue.

C. Adjustments to the RA Coincidence Adjustments

AReM submitted a proposal for revisions to the current approach for calculating the coincident adjustment factor in the previous RA rulemaking (R.09-10-032).[5] The final decision in Phase 2 of that rulemaking, D.11-06-022, found significant merit in AReM's proposal, but directed additional technical analysis by the Energy Division and the California Energy Commission ("CEC") before the Commission can implement AReM's proposal.[6] The Decision

[2] See Scoping Memo, page 2
[3] AReM Comments on Scope, R.11-10-023, November 7, 2011, pp. 3-5.
[4] D.11-06-022, p. 32.
[5] See revised proposal in AReM's comments on Phase 2 proposals, R.09-10-032, February 8, 20011, pp. 1-3.
[6] D.11-06-022, pp. 15-17.

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 Commission in next year's RA proceeding for further consideration and possible implementation in 2013."[7] Further, the Scoping Memo states that the Commission wishes to develop a "robust record" on this topic.[8]

For background, the Commission currently uses a single, system average coincidence adjustment factor to establish the RA requirements for each LSE, an approach that was established in 2005.[9] Use of this single, system average factor means that the peak RA requirement for the month determined for an LSE does not necessarily reflect its load shape. Moreover, as any one LSE's actual coincident peak shifts away from the average coincident peak, that LSE is allocated a disproportionate share of total RA requirements. As a result, this approach benefits the LSEs with a system-average load shape, because a portion of their RA requirements is shifted to other LSEs.

This result is especially true for electric service providers ("ESPs"), whose load shapes reflect the commercial and industrial ("C&I") customers they serve and are not coincident with the system average peak, which is driven by residential loads. As a consequence, ESPs are assigned a larger monthly RA obligation than can be justified by their load profiles and, therefore, are required to procure more than their fair share of RA capacity. In short, the single, system average coincidence adjustment factor used today shifts costs to direct access customers and competitively disadvantages the ESPs.[10]

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[7] D.11-06-022, p. 17.
[8] Scoping Memo, R.11-10-023, p. 3.
[9] D.05-10-052, p. 36.
[10] See further discussion in *Motion of the Alliance for Retail Energy Markets to Add Issue to Phase 2 Scope*, R.09-10-032, November 30, 2010, pp. 2-3.

While the most equitable remedy would be to adopt a LSE-specific coincident adjustment factor for calculating the monthly and annual RA requirements, AReM acknowledges that such an approach might create unwarranted administrative burdens for the staff of the CEC, which is responsible for calculating the adjustments. In the previous proceeding, AReM specifically endorsed an approach that reflected all of the revisions recommended by the CEC staff at the January 18, 2011 workshop in R.09-10-032.[11]

At the January 18, 2011 workshop, Ms. Lynn Marshall of the CEC presented data corroborating AReM's concern that RA requirements were being unfairly shifted to LSEs with load shapes that do not reflect the system average. As shown in her presentation,[12] ESPs with primarily C&I customers have "lower coincidence" with the CAISO's system peak, "particularly in winter months when the system peaks in the evening." Using 2009 historical data, she demonstrated that the system peak is "most strongly correlated with the residential sector."[13] The investor-owned utilities ("IOUs") primarily serve residential load, whereas ESPs are prohibited under current law from serving new residential load. Ms. Marshall explained that the non-coincident peak forecasts provided by the ESPs are generally accurate, but the coincident factor imposed on the ESPs by Commission directive leads to over-forecasting of the coincident peak in months when the ESPs have the most diversity from the coincident peak. Ms. Marshall also showed graphically that most ESPs have coincidence factors that are significantly different from the system average[14] and described the problem with the current approach as the "coincidence" being distributed from the ESPs to the IOUs. She explained that the ESPs are

[11] See AReM's comments on Phase 2 proposals, R.09-10-032, February 8, 20011, pp. 1-3.
[12] The CEC presentation was filed as part of the record in R.09-10-032 in AReM's Phase 2 comments submitted February 8, 2011 and is available on the CPUC web site at: http://www.cpuc.ca.gov/PUC/energy/Procurement/RA/ra_history.htm
[13] See, CEC presentation, January 18, 2011, p. 4.
[14] See, CEC presentation, January 18, 2011, pp. 5-7.

forced to over-procure RA capacity compared to their actual coincidence in winter months because of the coincidence adjustment factor they are assessed, which she noted adds up to a higher peak than the CEC's reference case. At the January 2011 workshop, Ms. Marshall also stated that CEC Staff supported AReM's proposal to revise the coincidence adjustment factor and proposed improvements to the methodology that make the calculation of coincidence adjustment factor more consistent with the way the CEC prepares forecasts for the long-term procurement plans ("LTPP") and other purposes.

Therefore, AReM's Phase 1 proposal, which includes the recommended improvements by CEC staff, is as follows:

(1) <u>Annual RA Requirements</u> – CEC would calculate a LSE-specific coincidence adjustment factor; and

(2) <u>Monthly RA Requirements</u> – CEC would adopt three or more load profile categories, calculate a coincidence adjustment factor for each, and assign the most appropriate category to each LSE.

AReM proposes that the CEC be responsible for determining the three or so most relevant load profile categories to be used for the monthly RA allocation process. For example, such categories could include: (a) LSEs serving all customer types; (b) LSEs serving primarily C&I; and (c) LSEs serving primarily residential and small commercial. Once determined, the CEC would then assign to each LSE the category that most closely reflects its overall load profile. In calculating the LSE's monthly RA requirements, the CEC would use the coincidence adjustment factor applicable to the assigned load profile category.

Under this approach, the additional administrative burden on the CEC is small (as noted by CEC staff at the January 2011 workshop), the forecast process is more consistent with the approach the CEC uses for other purposes, and the coincident adjustment factor applied to each LSE is more equitable for both monthly and annual RA requirements. AReM urges adoption of its proposal to revise the coincidence adjustment factor and looks forward to further discussion of this proposal in the forthcoming workshops.

D. Development of qualifying capacity (QC) rules for dynamically scheduled and pseudo-tie resources

AReM does not have a proposal on this issue at this time.

E. Allocation of Resource Adequacy credit fo r third-party demand response providers who participate in Reliability demand response programs

AReM does not have a proposal on this issue at this time.

F. CAISO Flexible Capacity Procurement Requirement

AReM does not have a specific proposal on this issue at this time, but does wish to offer comments. First, AReM is concerned that the CAISO has announced its own initiative to begin a stakeholder process on a related issue to develop "a capacity procurement mechanism than address[es] longer -term system nee ds than the CAISO's [capacity procurement mechanism] CPM provisions."[15] This initiative has been announced in conjunction with the CAISO's plan to seek a tariff waiver to permit a capacity payment to units that have announced retirement in 2012 unless they receive a capacity payment. AReM believes that it would be very useful if Commission Staff and CAISO participants in this proceeding could discuss at the January workshops how they plan to coordinate their efforts on this issue.

[15] See, *California ISO Report on Basis and Need for a CPM Designation for Sutter Energy Center,* issued on December 6, 2011, p. 9.

Second, AReM notes that any attempt to make RA requirements more granular increases the potential for the exercise of market power by entities that own RA resources. Market power was a significant concern addressed by the Commission in establishing the Local RA Requirements in R.05-12-013 and the mitigation measures approved there continue today. [16] In fact, LSEs must procure nearly all of the Local RA capacity in certain Local Areas, such as Humboldt (95%), LA Basin (90%), and SDG&E (100%). [17] Moreover, in certain Local Areas and sub-areas, nearly 100% of the Local RA capacity is owned and/or controlled by the IOUs. In short, the Commission must continue to consider the potential for the exercise of market power by the entities who own and control the RA resources as it considers that CAISO proposal, and must be prepared to adjust the CAISO's proposal accordingly or adopt effective mitigation measures.

G. Update Resource Adequacy rules to account for differences in procurement due to the 33% Renewable Portfolio Standard requirement, the electrical system's operational needs, and related issues

The Scoping Memo notes that overlap between the RA program and the LTPP proceeding has created issues with respect to "the value of RA, the cost-effectiveness of various options to procure RA, and modifications to RA rules to account for the electrical system's operational needs as renewable energy procurement increases."[18] The Scoping Memo then seeks:

> more detailed comment on which issues should be addressed in the near term and which can be addressed in the longer-term. For nearer-term matters, provide detailed implementation proposals. For longer-term issues, discuss the coordination and analysis necessary for them to be resolved. In addition, since the

[16] See, for example, D.06-06-064, pp. 69-73.
[17] Derived from the table of 2012 Local Capacity requirements in D.11-06-022, p. 8.
[18] See Scoping Memo, page 5.

resolution of some matters may require decisions in other proceedings, please explain what determinations fit in this proceeding and in other proceedings.[19]

At the outset, AReM would note that this issue is likely to overlap significantly with the Commission's consideration of the CAISO's flexible capacity requirements contained in (f) above, and therefore AReM suggests that perhaps these two categories should be combined to eliminate the potential for inefficiencies.

Next, AReM would note that what is referenced here as an "overlap" between RA and LTPP is not so much an "overlap" as it is an outright conflict between the two programs. The RA program is intended to ensure that all LSEs contribute to the reliability of the system commensurate with the load that they are serving. And yet the efficacy of the RA program continues to be undermined time and time again by the hybrid market structure that authorizes the IOUs to build or buy assets that are clearly in excess to stated RA requirements, and the costs for which are imposed on retail choice customers that procure no electricity from the IOUs. Imposing utility supply procurement costs on retail choice significantly constrains the competitiveness of retail choice as customers who seek retail choice because they want an ***alternative*** to utility procurement costs are nevertheless ***required to pay*** for utility procurement. Therefore, AReM suggests that, as this proceeding addresses and implements mechanisms to ensure that the RA program is accurately defining the capacity requirements of the grid and providing centralized market structures that allow all market participants to manage their RA obligations, there should be careful consideration given to how these improvements in RA will facilitate the transition and eventual elimination of separate capacity procurement through the LTPP program. AReM suggests that implementing such a transition should be included in the

[19] See Scoping Memo, page 5.

Phase 2 scope as a longer -term issue that would naturally follow on as items (f) and (g) are resolved in Phase 1.

III. CONCLUSION

AReM appreciates this opportunity to submit its proposals and comments on Phase 1 issues identified in the Scoping Memo. AReM looks forward to working with the Commission staff and market participants on these important issues.

Respectfully submitted,

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