

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

Order Instituting Rulemaking to Integrate and Refine
Procurement Policies and Consider Long-Term
Procurement Plans.

Rulemaking 12-03-014
(March 22, 2012)

**COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION ON THE PRELIMINARY SCOPING MEMO**

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The Order instituting this proceeding invited parties to comment on the Preliminary Scoping Memo included in the Order. The Independent Energy Producers Association (IEP) respectfully submits its comments.

**I. DEVELOPMENT OF RULES FOR MULTI-YEAR FLEXIBLE CAPACITY
PROCUREMENT TO MEET LOCAL AND SYSTEM NEEDS SHOULD
RECEIVE THE HIGHEST PRIORITY**

One of the crucial issues that was carried over from Rulemaking (R.) 10-05-006, the previous long-term procurement plan (LTPP) proceeding, is the adoption of new rules for multi-year procurement of resources that can provide flexible capacity. Proposals to address the need for multi-year procurement of flexible capacity have emerged in several different forms and contexts in recent years:

- The California Independent System Operator (CAISO) first presented its proposal for procurement of flexible capacity in R.09-10-032,¹ the

¹ *Motion of the California Independent System Operator Corporation for Expansion of the Phase 2 Scope to Include a Proposal for Procurement of Non-Generic Capacity Through the Resource Adequacy Program*, filed in R.09-10-032 on November 30, 2010.

previous Resource Adequacy (RA) proceeding, but Decision (D.) 11-10-003 closed R.09-10-032 with the CAISO's proposal "still pending."²

- In R.11-10-023, the current RA proceeding, the CAISO again presented its proposal for defining flexible capacity products and requiring load-serving entities (LSEs) to procure resources capable of providing those products as part of their RA obligations. The CAISO has also initiated a stakeholder process on procurement of flexible capacity.
- In R.11-10-023, the CAISO also sought the Commission's cooperation in establishing the CAISO's authority to engage in backstop procurement of resources at risk of premature retirement when the resources are found to be needed in the future to maintain the reliability of the grid or to accommodate the integration of increasing proportions of variable resources. Procurement of resources at risk of premature retirement is being considered in the CAISO's stakeholder process on procurement of flexible capacity.
- In R.10-05-006, the 2012 LTPP proceeding, Calpine proposed intermediate term (3-5 year) competitive solicitations that would create opportunities for existing resources to secure contracts that would support the continued operation of these resources. In the same proceeding, Southern California Edison Company (SCE) proposed that the CAISO would conduct auctions to procure capacity needed to maintain reliability.

² D.11-10-003, p. 3.

- The CAISO is seeking a waiver at the Federal Energy Regulatory Commission of some of its tariff provisions so that it could engage in backstop procurement of the Sutter plant. The Commission addressed the Sutter issue in Resolution E-4471, which directed the three large investor-owned electric utilities to negotiate with Calpine for a possible contract for 2012. Although these actions are focused on a commitment only for 2012, it is clear that a longer commitment would be needed to preserve Sutter as a potential resource to replace retiring once-through cooled units or to integrate increasing amounts of renewable energy in the next 3-5 years.

It is not coincidental that different parties with divergent interests would present proposals that would result in multi-year commitments. The two current proceedings that result in the procurement of generating resources—the RA proceeding and the LTPP proceeding—focus on different types of resources and different time frames in a way that leaves a procurement gap in the middle. The RA proceeding focuses on meeting the system and local reliability needs in the coming calendar year. The LTPP uses a ten-year planning horizon to determine whether new resources should be constructed to meet the system’s projected peak energy demand. The gap appears 3-7 years forward and concerns the types and locations of resources that will be needed to maintain grid reliability and to accommodate the integration of increasing amounts of renewable energy. The gap also raises the need to retain existing resources, both to meet reliability needs and to assure that uneconomic retirements are not creating a premature need for more expensive new capacity.

IEP agrees with many parties that the development of a multi-year flexible capacity mechanism deserves the Commission’s highest priority, and this effort should be

completed by the end of 2012. From IEP's perspective, consideration of a multi-year flexible capacity mechanism ought to include (1) a multi-year forward assessment and multi-year forward procurement of various reliability products identified as needed during the "procurement gap" (3-7 years forward); (2) treatment of resources at risk of premature retirement that could meet an identified need to help maintain grid reliability; and (3) mechanisms to ensure the availability of sufficient reserves to minimize the risk to electric generators that CAISO-approved scheduled outages will be rescinded due to a lack of replacement capacity.

What is less clear is whether this task should be taken on in this LTPP proceeding or in the current RA proceeding. The advantages of addressing this issue in the RA proceeding are that several proposals have already been presented in that forum and the parties have already devoted considerable time to discussion of these proposals. A multi-year requirement could be structured as an evolution of the existing RA obligation. On the other hand, the LTPP proceeding develops the forecasts of loads and resources that could inform a multi-year requirement, and adding a closer look at the middle years of the current planning horizon and at needs other than peak demand could be an evolutionary addition to the current LTPP proceeding.

On balance, IEP concludes that the multi-year capacity procurement structure should be taken up in the RA proceeding, for two primary reasons. First, the RA proceeding and its decisions encompass the broadest array of affected load-serving entities ("LSEs") subject to the CPUC's authority, including the investor-owned utilities, direct access providers, and community choice aggregators ("CCAs"), whereas the LTPP directly impacts only the three investor-owned utilities. Because the development of rules for multi-year flexible capacity procurement to meet local and system needs impacts more than merely the IOUs, the RA proceeding is the more appropriate venue to address this matter. Second, the RA proceeding is

less complicated. The LTPP proceeding has historically been a catch-all proceeding where many controversial issues have been addressed. Adding another complicated issue to this mix could result in a delay in the resolution of the multi-year procurement issue. Further postponement of a decision on this issue will create more requests for expedited emergency action to address looming retirements and more backstop procurement by the CAISO. In recent years, the issues raised in the RA proceedings have been relatively minor and have been resolved without the need for hearings. The RA proceeding creates a setting where the rules on multi-year procurement of flexible capacity can receive the attention they deserve and where the issue might actually get resolved by year's end.

If the Commission determines that the multi-year capacity procurement structure should be taken up in this LTPP proceeding, however, this matter should be prioritized so that the Commission can render a decision by the end of 2012. Specifically, IEP recommends that the LTPP proceeding be structured such that this issue can be addressed and resolved as a unique phase in the proceeding, separate from other LTPP issues, by December 31, 2012.

II. IDENTIFYING THE NEED FOR NEW RESOURCES AND THE RETENTION OF EXISTING RESOURCES DESERVES HIGH PRIORITY

High priority should also be given to the LTPP proceeding's usual task of identifying the need for new resources and authorizing the procurement of new resources. However, it adds nothing to the resource base if LSEs procure 1000 MW of new resources while 1500 MW of existing resources prematurely retire. In the past, the LTPP has focused almost exclusively on procuring new capacity. The need for flexible capacity that the CAISO has identified makes is equally important to provide market mechanisms that allow existing resources an opportunity to earn the revenues needed to remain in operation. In IEP's view,

these are two sides of the same coin and equal components of the effort to ensure that the state has the resources it needs, offering the functions it needs, when and where they are needed.

Respectfully submitted this 6th day of April, 2012 at San Francisco, California

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