

**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
(Filed October 20, 2011)

**COMMENTS OF THE
ALLIANCE FOR RETAIL ENERGY MARKETS
ON PHASE 1 RESOURCE ADEQUACY PROPOSALS**

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The Alliance for Retail Energy Markets (“AReM”) ¹ submits these comments on the Resource Adequacy (“RA”) proposals filed on January 13, 2012, as supplemented in workshop discussions on January 26 and 27, 2012 and March 30, 2012 and by additional filings and submittals on March 2, 2012 and March 23, 2012. These comments are filed in accordance with *Administrative Law Judge’s Ruling Seeking Comment* (“Ruling”), issued March 23, 2012, by Administrative Law Judge (“ALJ”) David M. Gamson, and the revised submission date for comments established by ALJ Gamson through notice by electronic mail on March 30, 2012. The Ruling further provided that parties’ comments could address all topics covered in the presentations made at the January workshops or in the transcripts of those workshops. ² AReM focuses its comments on the proposals of greatest significance to the competitive retail market.

I. REVISIONS TO THE COINCIDENCE ADJUSTMENT FACTOR

The Phase 1 Scoping Memo issued on December 27, 2012 specified that Phase 1 of R.11-10-023 would consider AReM’s proposal to revise the current approach for calculating 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.

² Ruling, R.11-10-023, March 23, 2012, p. 2.

coincidence adjustment factor , explaining that “it may be appropriate to modify” the current approach.³ As noted in the *Order Instituting Rulemaking* (“OIR”), Decision (“D.”) 11-06-022 deferred further consideration to this proceeding of AReM’s proposal made in Rulemaking (“R.”) 09-10-032.⁴ Specifically, D.11-06-022 found significant merit in AReM’s proposal,⁵ but directed additional technical analysis by the Energy Division and the California Energy Commission (“CEC”) before the Commission could implement AReM’s proposal.⁶ Moreover, the Decision 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

For background, the Commission currently uses a single, system average coincidence adjustment factor to establish the RA requirements for each load -serving entity (“LSE”), an approach that was established in 2005.⁸ Use of this single, system average factor means that the peak RA requirement for the month determined for a 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

³ Phase 1 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, R.11 -10-023, December 27, 2011, p. 3.

⁴ OIR, R.11-10-023, filed October 20, 2011, Attachment A, p. 1.

⁵ See revised proposal in AReM’s comments on Phase 2 proposals, R.09 -10-032, February 8, 2011, pp. 1 -3.

⁶ D.11-06-022, pp. 15 -17.

⁷ D.11-06-022, p. 17.

⁸ D.05-10-052, p. 36.

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 unfairly shifts costs from bundled utility customers to direct access customers and competitively disadvantages the ESPs.⁹

On January 13, 2012, AReM submitted a revised proposal in this rulemaking to modify the method for calculating the coincidence adjustment factor.¹⁰ In that proposal, AReM adopted the proposed recommendations of CEC staff at the January 18, 2011 workshop in R.09-10-032. Subsequently, at the January 26, 2012 RA workshop, Ms. Lynn Marshall of the CEC’s Electricity Supply Analysis Division proposed some additional refinements to AReM’s January 13th proposal, which AReM fully endorses, as discussed below.¹¹

At the January 26th workshop, Ms. Marshall supported AReM’s proposal for an LSE-specific annual adjustment, noting that the CEC already makes that adjustment for other purposes.¹² She proposed using for the CPUC-jurisdictional LSEs the calculation method she has been using for non-CPUC jurisdictional LSEs, which she said has proven to be very reliable. Ms. Marshall explained that ESPs serve primarily non-residential loads and that system peak is driven by residential loads. Because ESPs’ load is less coincident with the system peak, she

⁹ See further discussion of this issue 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.

¹⁰ *Proposals on Phase 1 Issues by the Alliance for Retail Energy Markets*, R.11-10-023, January 13, 2012, pp. 4-6.

¹¹ Ms. Marshall’s presentation is available on the Commission’s web site at:

http://www.cpuc.ca.gov/PUC/energy/Procurement/RA/ra_history.htm

¹² See. Marshall presentation, slides 7-9.

noted that the current method creates cross subsidies.¹³ She further explained that the ESPs' mix of customers seems to remain constant from year to year. For the monthly RA process, Ms. Marshall offered two alternatives with the monthly calculation only applying to the incremental load associated with load migration for the month.¹⁴ She asked for feedback from LSEs regarding which alternative they prefer, which AReM provides below.

In the presentations and discussions at the January 26, 2012 workshop, as well as at the workshop in R.09-10-032 on January 18, 2011, the CEC has clearly demonstrated the "inaccuracies caused by the current rule."¹⁵ Moreover, the CEC has also made clear that it *prefers* revising the calculation of the coincidence adjustment rather than continuing with the current method, in order to address cost shifting as well as to be consistent with the calculations it performs for other purposes, such as long-term procurement planning ("LTPP") and RA obligations for non-CPUC jurisdictional LSEs.¹⁶ Significantly, when presented at the January 26th workshop, no party stated opposition to AReM's proposal as refined by the CEC.

Therefore, AReM's final proposal for which it seeks Commission approval in the June 2012 Phase 1 decision is set forth below.

AReM Final Proposal for Revision Coincidence Adjustment Factor

AReM's proposal as refined by the CEC includes two main components: (1) a calculation to determine the applicable coincidence adjustment factor to apply for the annual RA obligations; and (2) a calculation to determine the applicable coincidence adjustment factor to apply for the monthly RA obligations, as follows:

¹³ Marshall presentation, January 26, 2012, slide 5 referencing D.11-06-022, Finding of Fact No. 5, p. 63.

¹⁴ Marshall presentation, January 26, 2012, slide 12.

¹⁵ Marshall presentation, January 26, 2012, slide 4.

¹⁶ Marshall presentation, January 26, 2012, slide 6.

- (1) Annual RA Requirements – CEC would calculate a LSE -specific coincidence adjustment factor using LSE hourly loads as described in the CEC’s January 26th workshop presentation.¹⁷
- (2) Monthly RA Requirements – CEC would calculate an ESP composite coincidence adjustment factor, which would be applied to each ESP’s migrating load for the month (CEC Alternative 1); migrating load for community choice aggregation would be treated separately.¹⁸

In summary, AReM urges the Commission to adopt in the June 2012 Phase 1 decision AReM’s final proposal, as provided and supported herein, to revise the current method for calculating the coincidence adjustment factor in the RA program. The existing cross subsidies have been in place since 2005, disadvantaging direct access customers and ESPs alike. The Commission and stakeholders have had ample opportunity to discuss the issue and debate the details. Moreover, the CEC has endorsed the proposed revisions and finds them necessary to address cross subsidies and ensure consistency. Accordingly, AReM urges the Commission to adopt AReM’s final proposal in Phase 1.

II. FLEXIBLE CAPACITY PROCUREMENT REQUIREMENT

The California Independent System Operator (“CAISO”) proposed that the Commission impose a new requirement on LSEs to procure “flexible capacity” as part of RA procurement for the 2013 RA compliance year. The bare outlines of this proposal were first provided in the CAISO’s January 13, 2012 submittal.¹⁹ After fielding numerous questions and concerns at the January 26th workshop, the CAISO subsequently filed “supplemental information” on March 2,

¹⁷ Marshall presentation, slides 7-9.

¹⁸ Marshall presentation, slides 10-12.

¹⁹ *California Independent System Operator Corporation Proposal on Phase 1 Issues*, R.11-10-023, January 13, 2012, pp. 7-18.

2012 to bolster its proposal.²⁰ To complicate matters, the CAISO has a concurrent stakeholder process underway, which is addressing “backs top” procurement for a supposed LSE obligation not yet adopted by the Commission as well as procurement to address “risk of retirement” of flexible capacity units.²¹

However, at the March 30, 2012 RA workshop, staff of the CAISO backtracked on the proposal and now states that the CAISO plans to revise its proposal and request to delay the LSE obligation to the 2014 RA compliance year.²² Because this deferral proposal is not part of the official record at this time, AReM will comment on it in reply, if the CAISO files its proposed revisions in its April 11th comments.

While we await the CAISO’s latest update to its proposal, AReM does provide herein general comments and concerns regarding the concept of a LSE obligation to procure flexible capacity as part of the RA program.

In the first instance, AReM disagrees that LSEs should be obligated to procure “flexible capacity” as part of their RA obligations. While AReM agrees that renewable integration creates a need for new products and services, AReM believes that these flexible attributes are, in fact, ancillary services and that the CAISO should use existing and new ancillary service market products to obtain the flexibility it needs. Thus far, the CAISO has failed to explain why it is unable to do so. However, AReM believes that the CAISO’s current efforts to define more clearly its flexible capacity needs and categories for procurement will be useful in devising such

²⁰ *California Independent System Operator Corporation Submission of Supplemental Information to Proposal*, R.11-10-023, March 2, 2012, Attachment.

²¹ On April 3, 2012, the CAISO announced a delay in its stakeholder process and has provided no information on when it will resume. Information on the CAISO stakeholder process is available on the CAISO’s website at: <http://www.caiso.com/informed/Pages/StakeholderProcesses/FlexibleCapacityProcurement.aspx>

²² CAISO presentation, January 26, 2012 workshop, slides 14 and 15. Presentation available on Commission website at: http://www.cpuc.ca.gov/PUC/energy/Procurement/RA/ra_history.htm

ancillary products and markets.

Secondly, any increasingly granular requirements invite additional opportunities for exercise of market power. The CAISO must acknowledge the asymmetric nature of any additional RA capacity obligations on LSEs and address them upfront in the design and obligations of the program as well as in how the CAISO's program will interact with existing RA capacity programs. The CAISO has not addressed market power concerns except to state that there are none for 2013.²³

By contrast, the current CPUC RA program acknowledges that LSEs have a regulatory obligation to purchase RA capacity, yet there is no corollary obligation on the part of RA capacity to sell. To address this asymmetry for supply -constrained resources in Local RA Capacity Areas, the CPUC ensures these resources have their market power limited by a waiver process. It is important that the CAISO harmonize any and all new RA obligations with existing RA programs and their market mitigation aspects so as not to unintentionally develop a RA program that incents RA capacity to seek CAISO backstop procurement in lieu of contracting with the RA-obligated LSEs at market-negotiated prices.

Third, LSEs are unable to evaluate the cost or transactional difficulty of the proposal without specific data on the megawatts of flexible capacity available from each RA resource. Thus far, the CAISO has been unable to describe when or how this information will be provided to LSEs, or whether there are confidentiality issues that must be addressed. In addition, at the March 30th RA workshop, CAISO staff affirmed that some of its proposed categories for flexible capacity procurement "overlap." AReM is concerned that the Commission and the CAISO will be unable to track and account for such "overlap" complicating the compliance framework.

²³ CAISO's Supplemental Filing, March 2, 2012, p. 19.

As is evident, AReM has substantial concerns regarding the CAISO's concept for a LSE obligation to procure flexible capacity as part of the Commission's RA program. AReM supports delay in further consideration of this proposal and opposes its adoption for the 2013 RA compliance year.

III. MAXIMUM CUMULATIVE CONCENTRATION BUCKETS

The Scoping Memo for this proceeding listed this topic of Maximum Cumulative Concentration ("MCC") buckets for demand response resources for consideration in Phase 1.²⁴ However, subsequent proposals by Energy Division submitted by Energy Division have, in fact, expanded the topic to a complete re-vamping of the MCC approach. AReM views Energy Division's current proposal,²⁵ as an alternative to the CAISO's proposal for a LSE obligation to procure flexible capacity as part of the RA program. Because the CAISO has stated its intent to defer discussion of its proposal, AReM recommends deferring discussion on the Energy Division's MCC proposal so that both proposals can be compared side-by-side in the future deliberations.²⁶

IV. CAISO'S PROPOSAL FOR 12-MONTH LSE SHOWING FOR SYSTEM RA CAPACITY

In conjunction with its proposal for a LSE obligation to procure flexible capacity, the CAISO has proposed that LSEs be obligated to submit annual RA showings demonstrating that they have procured 90 percent of their System RA capacity for all 12 months of the year.²⁷ At present, LSEs must make annual showings for the five summer months.²⁸ While the CAISO says it intends to delay consideration of its flexible capacity proposal to later in this proceeding, it

²⁴ Scoping Memo, *loc. cit.*, pp. 2-3.

²⁵ Ruling, *loc. cit.*, Attachment A.

²⁶ AReM also proposes deferring Energy Division's proposal to modify the current MCC buckets as a "default." See, Attachment to Scoping Memo, pp. 16-17.

²⁷ CAISO's Supplemental Filing, March 2, 2012, pp. 18-19.

²⁸ LSEs already procure 100 percent of their Local RA Requirement in time for the annual RA showings.

also plans to request that the Commission adopt a proposal in the Phase 1 decision for a 12 - month showing “to assess procurement relative to flexible capacity categories.”²⁹

AReM is unable to provide specific comments until the CAISO formally files its new proposal in this proceeding. However, AReM believes that any consideration of a 12 -month showing is premature and must be discussed in the context of the flexible capacity obligations, which are to be addressed later in this proceeding. AReM does not understand how the CAISO can “assess” procurement of flexible capacity, when no such defined categories have been defined and adopted by this Commission.³⁰

In addition, the number of months to be covered by the annual RA showing was debated extensively by parties in previous RA proceedings. Accordingly, AReM recommends that this issue be deferred and considered more fully when this proceeding addresses the CAISO’s flexible capacity proposal and the Energy Division’s re-vamped MCC buckets.

V. MULTI-YEAR FORWARD LSE RA PROCUREMENT OBLIGATION

The Scoping Memo adopted for this proceeding does not include consideration of a multi-year procurement obligation for LSEs in Phase 1 of this proceeding.³¹ Nevertheless, several parties have raised this topic as a Phase 1 issue.³² Significantly, no party has provided a concrete proposal for how such an obligation would be imposed. Calpine’s outline of the steps necessary to develop and implement such an obligation comes the closest,³³ but the obvious conclusion is that such an obligation would take extensive analysis and considerable debate. There is not

²⁹ CAISO presentation, January 26, 2012 workshop, slide 14.

³⁰ CAISO stated at the March 30th workshop that it also would ask the Commission to adopt the proposed categories, but workshop participants opposed that approach until more information on flexible capacity needs is available.

³¹ Scoping Memo, December 27, 2011, pp. 2 -6.

³² See, for example, the January 13, 2012 submissions of Calpine, pp. 5 -6, NRG Energy, pp. 2 -3, Pacific Gas and Electric Company, pp. 2 -4, and CAISO’s March 30th Workshop presentation, slide 15.

³³ *Proposal of Calpine Corporation on Phase 1 Workshop Issues*, R.11-10-023, January 13, 2012, pp. 5-6.

nearly enough time available before the Phase 1 decision is due. Indeed, California has been down this road before and the Commission, working with a multitude of stakeholders, determined not to adopt a multi-year forward procurement obligation at the time.³⁴

AReM reiterates and emphasizes at this time, as it has stated before,³⁵ that any multi-year forward LSE procurement obligation must be accompanied by a centralized forward clearing market that would promote pricing transparency and allow LSEs to manage risk and effectively transact on a multi-year forward basis. No such proposal is on the table. Accordingly, AReM respectfully requests that the Commission ignore parties' requests to consider a multi-year LSE procurement obligation as part of the RA program within this Phase 1 proceeding.

VI. CONCLUSION

For the significant reasons provided herein, AReM respectfully requests that the Phase 1 proposed decision adopt AReM's final proposal to revise the current method for calculating the coincidence adjustment factor in the RA program and end the current cross subsidies in RA procurement obligations. In addition, AReM supports delaying further consideration of the CAISO's proposal for a LSE obligation to procure "flexible capacity" as part of the RA program and opposes its adoption for the 2013 RA compliance year. AReM also recommends deferring discussion on the Energy Division's MCC proposal so that the proposal can be compared and considered as an alternative to the CAISO's flexible capacity proposal in future deliberations. Regarding the CAISO's proposal for a 12-month annual RA showing for System RA capacity procurement, AReM recommends that the issue be deferred and considered more fully when this proceeding addresses the CAISO's flexible capacity proposal and the Energy Division's re -

³⁴ D.10-06-018, R.05-12-013, issued June 7, 2010, p. 2.

³⁵ See, for example: *Comments of the Alliance for Retail Energy Markets on the Revised Proposed Decision of Administrative Law Judge Mark S. Wetzell*, R.05-12-013, April 16, 2010, pp. 5-7.

vamped MCC buckets. Finally, AReM respectfully requests that the Commission ignore parties' requests to consider a multi-year LSE procurement obligation as part of the RA program within this Phase 1 proceeding until it is willing to address a centralized forward clearing market that will allow LSEs to manage the associated procurement risks.

Respectfully submitted,

A handwritten signature in black ink that reads "Susan J. Mara". The signature is written in a cursive, flowing style.

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