

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 UTILITY REFORM NETWORK
ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT**



THE UTILITY REFORM NETWORK

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I. INTRODUCTION

Pursuant to the December 27, 2011 Phase 1 Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge (ALJ) and ALJ Gamson's March 23, 2012 Ruling Seeking Comment (Ruling) (as amended by e-mail on March 30 to allow these comments to be filed on April 11), TURN offers the following comments. The March 2012 Ruling seeks comments on the attached Energy Division report, the CAISO's March 2 proposal, and other topics covered at the January 26-27, 2012 Resource Adequacy workshops.

TURN comments are limited to the issues raised by the respective proposals of the California Independent System Operator (CAISO) and Energy Division (ED) to require Load-Serving Entities (LSEs) to meet their Resource Adequacy (RA) procurement requirements with a minimum quantity of "flexible capacity" to facilitate the continued reliable integration of renewable energy resources into the CAISO-controlled grid.¹

II. DISCUSSION

A. No Indication of Need for Either Proposal

TURN first observes that the absolute "need" for either the CAISO or ED proposal has not been adequately demonstrated before this Commission.²

In making this observation, TURN is not suggesting that the RA program might not need such flexible capacity requirements in the future. In fact, TURN generally agrees that the growing penetration of renewable resources will present new challenges to the CAISO's reliable operation of the electric grid, particularly its need to manage higher changes in "net load" over

¹ See the CAISO's *2013 Flexible Capacity Procurement Requirement, Supplemental Information to Proposal*, which was filed March 2, and the *Energy Division Report, Resource Adequacy Workshop*, which was provided as an attachment to the ALJ Ruling of March 23. TURN anticipates that other parties will formally introduce these documents into the record of this case.

² See Section II.C below for further discussion.

short-term time intervals.³ Further, TURN acknowledges that in the face of such challenges, the Commission may need to take specific actions in its various procurement-related decisions to help ensure that the CAISO has the tools to meet such challenges.

However, such general acknowledgments do not mean that either the CAISO or ED proposal needs to be adopted for 2013 – or any following year. Rather, before imposing such a potentially costly requirement on LSEs – and thus their electricity customers – the Commission should conduct a detailed assessment of what system flexibility requirements will be and then – and only then – determine if it needs to take any additional steps to help meet such system needs, whether in RA dockets or other proceedings. TURN does not believe that the Commission can reasonably conclude yet what system flexibility requirements are and what, if any, changes to the RA program will be a reasonable means for meeting such requirements.⁴

In making this statement, TURN does not mean to criticize the efforts both the CAISO and ED made to prepare and support their proposals. TURN found much information of value in both the CAISO and ED proposals and presentations. However, the workshop process the Commission pursued thus far in this docket was woefully inadequate to validate either proposal.⁵ For example, each proposal received only two to three hours of consideration in the March 30 workshop. Though that time was well-spent, TURN can confirm that it still has questions about both proposals' rationales and details that it did not have time to raise. And TURN's remaining questions are in addition to the other questions raised but not fully answered at the workshop.

³ The term “net load” is used to refer to customer load minus wind and solar generation. The phrase “short-term time intervals” refers to periods ranging from a few seconds to multi-hour intervals as long as twelve hours.

⁴ For example, it is possible that the changes the CAISO is currently making to its markets may yield greater system flexibility without the imposition of specific RA procurement limitations on LSEs.

⁵ TURN notes that for the past several years, annual RA proceedings have focused on much less significant changes to RA policy and not required significant discovery and fact-finding efforts. Though this approach may have been sufficient to consider such issues, it was not adequate for evaluating either flexible capacity proposal in this docket.

Finally, it is important to remember that, as was made clear at the workshop, that:

- The CAISO does not see a need for specific flexible capacity requirements to be imposed in 2013 for purposes of operating the system reliably in 2013, and
- ED does not believe that its proposed requirements would be “binding” on LSEs in 2013, that is, that it would have any effect on the procurement of additional flexible capacity in 2013.

B. Reasonable Actions for Commission

Given the above, TURN offers the following recommendations. The first two recommendations are alternatives to each other, though TURN prefers the first alternative to the second. The third recommendation is a plea to the Commission to avoid a specific set of actions.

- 1) Defer Implementation Beyond 2013 RA Compliance Year, But Consider Implementation for 2014: TURN believes the Commission can reasonably defer implementing any flexible capacity requirement beyond the 2013 RA compliance year. However, TURN also believes that the Commission must not wait until next year’s annual RA policy review to address this issue again. Rather, the Commission should begin addressing possible flexible capacity needs and policies in the very near future with the goal of assessing if such requirements should be imposed for the 2014 RA compliance year. Such review could occur in either this docket or the recently-opened Long-Term Procurement Plan (LTPP) docket (A.12-03-014), though the work between the two dockets needs to be closely coordinated. The Commission should expect that such review will at a minimum require a much more extensive and iterative workshop and discovery process than recent RA proceedings have seen, and that such review might even require the filing of testimony and holding of evidentiary hearings.

- 2) If Commission Wants to Act Now, it Should Adopt Energy Division Proposal: Should the Commission decide to implement a flexible capacity requirement for the 2013 compliance year, TURN believes the ED proposal is more suitable for that limited purpose. The ED proposal would offer the particular advantage of not being embedded in the CAISO tariff and could thus be more easily changed – possibly even during 2013 – as actual needs and appropriate policies become clearer. If the Commission wants to pursue this second alternative, it should still pursue the same detailed review of potential flexible capacity needs for 2014 that was recommended in the first alternative above.
- 3) Commission Should NOT Adopt Both Proposals Together: Finally, the Commission should not impose both proposals at the same time. Requiring generators and LSEs to navigate through two new and yet-to-be-fully-defined mechanisms will at least double the administrative burden of the new requirement. To the extent the requirements are not fully aligned, it is also possible that some generators might find that some of their assets suddenly possess significant market power and/or have little value at all. Similarly, LSEs might find their procurement stymied by significant market power or availability of flexible resources and/or that some of its already-contracted RA resources are suddenly worthless. Such problems could arise under either proposal if implemented alone, but would be much more likely to occur if both proposals were adopted – even though the CAISO and ED have stated there is no pressing need to procure flexible capacity for 2013.

C. Commission Needs to Base Its Decisions on Proper Evidence

TURN began these comments with the observation that there is no evidence that either the CAISO or ED proposal is needed. Both the CAISO and ED proposals contain some

assertions as to such need. However, given the lack of ability to explore these assertions in any detail in this docket, TURN does not believe the Commission can accept these assertions as evidence. As just one example, the CAISO proposal states: “[t]he ISO anticipates that retirement of once-through cooled resources will create a capacity gap of more than 3,500 megawatts needed to serve load in the ISO’s balancing authority area as early as the end of 2017, and the ISO projects this capacity gap to grow to 4,600 megawatts by 2020”.⁶ TURN notes that the CAISO’s first figure was provided to the Federal Energy Regulatory Commission (FERC) in January⁷ but has not been vetted by this Commission and cannot be accepted as evidence of need in this docket. Further, that assertion was hotly disputed by some parties before the FERC.⁸ The CAISO’s second figure has also not been vetted by this Commission; rather, parties to the Settlement Agreement pending in the 2010 Long-Term Procurement Plan proceeding (R.10-05-006) agreed to defer consideration of this specific projection.⁹

To TURN’s knowledge, the Commission has no properly-reviewed evidence before it as to the nature and magnitude of the CAISO grid’s flexibility needs nor the best means of meeting such needs. The Commission thus has no basis for adopting potentially costly policies in this docket. The Commission must instead judiciously review and, if appropriate, adopt such policies in a future proceeding, as recommended above.

III. CONCLUSION

⁶ See CAISO March 2 proposal, page 3.

⁷ See CAISO’s “Petition for Waiver of Tariff Provisions...” filed January 26, 2012 in Docket No. ER 12-897-000.

⁸ See, for example, “Joint Protest of California Municipal Utilities Association (CMUA) and The Utility Reform Network (TURN)” in Docket No. ER12-897-000, February 16, 2012.

⁹ The Settlement Agreement said “The resource planning analyses presented in this proceeding do not conclusively demonstrate whether or not there is need to add capacity for renewable integration purposes through the year 2020, the period to be addressed during the current LTPP cycle. The Settling Parties have differing views on the input assumptions used in, and conclusions to be drawn from the modeling. There is general agreement that further analysis is needed before any renewable integration resource need determination is made” (p. 5).

TURN appreciates this opportunity to submit comments and looks forward to actively contributing to this proceeding.

Respectfully submitted,

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