

**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 GENON ENERGY, INC. PURSUANT TO
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT**

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I. INTRODUCTION.

Pursuant to the Administrative Law Judge's Ruling Seeking Comment issued on March 23, 2012, GenOn Energy, Inc. ("GenOn") provides comments on issues related to resource adequacy ("RA") that were addressed in workshops in this proceeding. By subsequent ruling issued by email and served on the service list on March 30, 2012, the deadline for providing opening comments was extended to April 11, 2012. GenOn's comments address the following three issues: (1) procurement of flexible capacity; (2) consideration of a forward capacity procurement obligation; and (3) use of existing capacity to satisfy deliverability obligations.

II. THE COMMISSION SHOULD FOCUS ON THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR'S PROPOSAL FOR PROCUREMENT OF FLEXIBLE CAPACITY.

At the workshop held on March 30, 2012, the discussion focused on the two proposals for procurement of flexible capacity, the first made by the Energy Division, and the second made by the California Independent System Operator ("CAISO"). The Energy Division's proposal would modify the maximum cumulative capacity ("MCC") buckets in an effort to direct the procurement of flexible capacity. The CAISO's proposal identifies three different flexibility characteristics and would set procurement targets for those characteristics.

During the course of the March 30, 2012 workshop, one area where general agreement emerged was that the Commission does not need to implement a flexible capacity procurement

framework for 2013. For a company like GenOn, whose revenues in California depend significantly on the sale of capacity services, any change in the RA program is a major consequence. It would be very helpful for planning purposes if the Commission would confirm as soon as possible that it does not intend to modify the RA program for 2013.

With respect to the two proposals, Administrative Law Judge Gamson asked the workshop attendees whether they are compatible and thus capable of being combined into one framework. No input at the workshop suggested the proposals could be combined into a single framework; several parties suggested the proposals are mutually exclusive. Given the input provided at the workshop, GenOn believes the Commission must choose between the two competing proposals.

Faced with a choice between the two proposals, the Commission should focus its attention on developing the CAISO proposal. GenOn is concerned with the Energy Division proposal for two reasons. First, the MCC bucket approach limits the procurement of flexible capacity based on technology. For example, under the Energy Division proposal, steam turbines are placed in Bucket 3. Steam turbines offer precisely the type of flexible capacity the CAISO needs to operate the transmission system reliably, yet if load-serving entities (“LSEs”) procure too much capacity from solar facilities, another technology placed into Bucket 3, such that the cap on Bucket 3 is reached, then LSEs would be unable to procure the flexible capacity offered by steam turbines. Similarly, combustion turbines, otherwise referred to as “peakers,” must compete in Bucket 2 with demand response and dispatchable hydro. If the cap on Bucket 2 is reached, it may foreclose the opportunity of LSEs to contract with peakers to meet the CAISO’s need for flexible capacity.

Second, the CAISO proposal is clearly more flexible, providing metrics that can characterize differences among resources in a reasonable way that is consistent with the CAISO’s flexibility needs. As the CAISO clearly explained at the workshop, the flexibility requirements of the system are well understood, and those requirements have driven the CAISO’s specification of maximum ramping, load following and regulation as the key flexibility attributes. The CAISO is developing a flexible ramping product to operationalize these requirements, and is implementing other market features like enhancement of the residual unit

commitment process to look ahead 72 hours, thereby allowing long-start resources to be more efficiently committed and available to meet ramping requirements. The CAISO's proposed flexibility attributes are entirely consistent with the CAISO's evolving day-ahead and real-time market mechanisms, while the Energy Division's proposal bears no relation to the CAISO markets.

The CAISO proposal also distinguishes load following from maximum ramping, and can recognize seasonal differences in the need for these services. As the CAISO explained at the workshop, the system need for load following is relatively large in the winter, when hourly changes in net load can be high, while the need for maximum continuous ramping is greater in the summer. The Energy Division proposal does not recognize either the distinction between load following and maximum continuous ramping, or the seasonal difference in requirements given that the proposed buckets are annual values only.

At the conclusion of the March 30, 2012 workshop, it was evident that either proposal would require additional development before it could be implemented to address the need for flexible capacity. There is no clear path to adapting the Energy Division proposal. In contrast, the CAISO proposal provides an approach that is designed from the ground up to define precise monthly requirements for specific flexibility characteristics, and is superior to an arbitrary, fixed assignment of resources to "buckets" that are then associated with arbitrary procurement limits. The Commission should focus on the best way to incorporate the proposed CAISO flexibility requirements into procurement standards over a transition period of several years. GenOn recommends that the Commission continue work on the CAISO proposal with the goal of adopting a framework after the 2013 RA compliance year.

III. THE COMMISSION SHOULD SPECIFY ITS INTENTIONS WITH RESPECT TO MULTI-YEAR FORWARD PROCUREMENT OF CAPACITY.

The Commission's recent approval of a resolution ordering the three utilities to negotiate with Calpine for a possible contract covering the Sutter Energy Center ("Sutter"), coupled with the CAISO's initiative to modify its tariffs to expand its authority to compensate facilities at risk of retirement, raise the question of whether the Commission will develop a more comprehensive solution to the compensation issues reflected in these two interim solutions. To the extent the

Commission is inclined to work on a solution, GenOn believes that such work should occur in this RA docket.

First, the Commission has identified this docket as the venue in which issues pertaining to procurement of flexible capacity will be addressed. Any proposal related to a multi-year forward procurement framework will have to build on the work being done in this docket to address flexible capacity. The Sutter matter demonstrates this. The CAISO designated Sutter for special treatment not only because it represents flexible capacity, but also because its capacity would be needed several years in the future. If the Commission hopes to avoid a recurrence of situations like Sutter, it will be necessary to decide how to handle the need for procurement of flexible capacity several years in the future. With the issue of flexible capacity procurement already identified for review in this proceeding, it makes sense also to address the multi-year forward component of the solution in this proceeding.

Second, RA dockets have historically addressed the availability of existing capacity for purposes of maintaining transmission system reliability. The long-term procurement plan (“LTPP”) proceeding, the alternative venue in which to consider the multi-year forward capacity procurement issue, historically has focused largely on the procurement of new capacity resources. For purposes of maintaining clarity as to which issues are considered in particular dockets, it would be most appropriate to continue addressing issues regarding the procurement of existing RA capacity resources in the RA docket. The multi-year forward topic is clearly focused on ensuring adequate compensation for existing capacity resources to support their continued availability.

Regardless of the docket in which the Commission decides to address the issue, the Commission should send a clear message that it intends to take the lead on the policy discussion regarding the need for, and possible design of, a capacity procurement framework that incorporates a multi-year forward procurement obligation. The Commission should do this by issuing a ruling, ideally in this docket, outlining a schedule to consider the issue.

IV. THE COMMISSION SHOULD ENCOURAGE EXISTING CAPACITY TO SUBSTITUTE FOR EXPENSIVE TRANSMISSION UPGRADES REQUIRED FOR FULL DELIVERABILITY STATUS FOR NEW GENERATION.

In prior submissions to the Commission, stakeholders have asked the Commission to provide utilities the flexibility to forego supply of RA capacity from new generation facilities by allowing developers to package RA capacity supplied by a third-party.¹ GenOn supports this initiative. Moving away from the obligation to provide full deliverability for new generation projects could reduce the costs associated with expensive transmission upgrades required to make such new projects fully deliverable. Removing full deliverability as the default outcome in power purchase agreement negotiations would make more efficient use of existing capacity resources. In fact, the deterioration of revenues for existing capacity due to the increased supply of renewable capacity is cited as a major concern by the CAISO as a basis for its initiatives to address the need to maintain flexible capacity. It is possible that encouraging a substitute to full deliverability could flow revenue to existing capacity that may address in part the revenue shortfalls exemplified by the Sutter Energy Center situation.

GenOn is not asking that the Commission immediately rule on substitutes to full deliverability. Instead, the Commission should provide guidance to interested parties that it intends to take up this issue as soon as possible in a phase of this RA docket.

V. CONCLUSION.

Based on the foregoing, the Commission should provide guidance to capacity market participants that any changes to the RA framework to incorporate flexible capacity characteristics will not take place prior to the 2014 RA compliance year. As between the Energy Division's MCC buckets proposal and the CAISO's flexible capacity procurement proposal, the Commission should focus on the CAISO's proposal, which needs additional development before being implemented. While examining the issue of flexible capacity procurement, the Commission should also address in this docket the topic of multi-year forward capacity procurement. Finally, the Commission should examine its rules to encourage the use of existing

¹ See *Response of Large-Scale Solar Association to the December 27, 2011 Phase I Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge*, R.11-10-023, filed January 13, 2012; see also *Notice of Ex Parte Communication by California Wind Energy Association*, R.11-05-005, filed November 3, 2011.

capacity as a substitute for expensive transmission upgrades needed to meet full deliverability obligations under procurement agreements.

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Respectfully submitted,



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