

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)

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT**

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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), The Utility Reform Network (TURN) offers the following comments in response to certain other parties' April 11th comments on flexible capacity procurement issues.

II. DISCUSSION

A. TURN Endorses Deferral of Flexible Capacity Procurement and Rapid Commission Review of Underlying Issues

The great majority of parties – including generators, marketers and consumers (including TURN) – strongly endorse deferring the implementation of a flexible capacity procurement requirement beyond the 2013 compliance year. And the major advocate for implementation of a requirement for the 2013 compliance year – the CAISO – has acknowledged that there is no need for such a requirement to provide reliable service in 2013.¹

Parties – including TURN – also tend to argue with equal vigor that the Commission should act quickly to address the issues underlying the CAISO's request for such a procurement requirement.

B. Specific Need for “Multi-Year Forward Procurement” Is Not Yet Proven

In seeking rapid Commission action, many parties specifically recommend that the Commission implement some type of mechanism for “multi-year forward procurement” of capacity, often on the grounds that existing capacity must be kept financially viable to integrate renewable resources later this decade. Though TURN agrees that the Commission should

¹ CAISO Comments (April 11, 2012), p. 5.

expeditiously review its policies and programs regarding renewable integration in this and other dockets, TURN urges the Commission to keep an open mind as to what changes to its policies, if any, it should implement. In particular, the Commission should not *assume* in advance that its Resource Adequacy (RA) program needs to be changed, much less that it must implement some type of multi-year forward procurement.²

A myriad of significant factual issues must first be settled *before* the Commission can determine if and how it wishes to change its RA policy so radically. For example, it has yet to be proven to this Commission that existing capacity needs to be preserved to provide reliable service in future years, and if so, how much such capacity should be preserved. Nor has it been shown that current capacity and energy markets will not provide sufficient revenues to enable any necessary amounts of existing capacity to remain available until they may be needed. Further, implementation of a multi-year forward capacity procurement program would need to consider other issues as well, such as the significant re-allocation of risk from generators to customers that a multi-year forward capacity procurement would likely impose. The Commission should instead consider that generators' current complaints may not be driven by failures of current markets, but instead by markets that are functioning as they should in response to the state's existing surplus of capacity and low gas prices.

Finally, Calpine suggests that, because a multi-year forward procurement mechanism will not likely be developed in the "near term", the Commission "expeditiously consider and adopt changes to existing procurement policies and practices to ensure the continued availability of

² TURN's comment on this issue is similar to its observation in opening comments that though many parties appear to have concluded that a year-ahead flexible capacity procurement mechanism should be implemented within the RA program, there is no fully-vetted evidence that such a need exists. *See* TURN Opening Comments, pp. 1-3.

existing resources” in the new Long-Term Procurement Plan Rulemaking (R.12-03-014).³

Consistent with TURN’s above comments about the lack of evidence supporting multi-year forward procurement in general, the Commission should also reject this hopelessly vague request as unsupported.

III. CONCLUSION

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

Respectfully submitted,

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³ Calpine April 11 Comments, pp. 5-6.