

**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 CALPINE CORPORATION ON PROPOSED DECISION**

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**COMMENTS OF CALPINE CORPORATION ON PROPOSED DECISION**

Pursuant to Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Calpine Corporation (“Calpine”) submits these comments on the Proposed Decision addressing local procurement obligations for 2013 and adopting refinements to the Commission’s Resource Adequacy (“RA”) program (“PD”).

**I. INTRODUCTION**

As Calpine stated at the outset of this proceeding,<sup>1</sup> as well as in previous RA and Long-Term Procurement Planning (“LTPP”) proceedings, the addition of a multi-year forward procurement requirement to the current RA program is imperative to ensure the continued availability of existing resources required to maintain reliability going forward. While the Commission has signaled on various occasions the need for, and its willingness to tackle, this necessary reform to the RA program,<sup>2</sup> the PD represents yet another “punt” of the issue. This

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<sup>1</sup> See Comments of Calpine Corporation on Order Instituting Rulemaking (R.11-10-023) at 2-4.

<sup>2</sup> See, e.g., D.10-06-018, mimeo at 32-33. (“A multi-year forward commitment has the potential to provide important reliability benefits. It would provide advance knowledge of impending reliability problems, years ahead of delivery, allowing planners to address those problems in a timely, cost-effective manner. Additionally, a multi-year forward commitment would be expected to stimulate merchant generator investment, supporting our policy not to rely solely on Commission-directed forward procurement by IOUs to provide the investment needed for new generation. Further, as the CAISO points out, a multi-year forward commitment would promote competition between new and existing resources as well as competition between transmission upgrades and generation supply additions. Such competition could yield more cost-effective outcomes. Having generation investment commitments made years in advance should also promote more cost-effective backstop procurement decisions. Finally, as CUE notes, a multi-year forward RA commitment applicable to all LSEs could be an effective way to ensure that all market participants shoulder the burden of promoting investments, which in turn would help to achieve the equitable allocation objective.”)

time, however, the Commission's inaction comes at a point where the very imminent risks of the economic retirement of existing resources are more evident.

The PD discusses the Commission's willingness to consider a multi-year forward RA procurement requirement in the future,<sup>3</sup> but fails to provide a definitive process, a specific time or the place for such consideration. Accordingly, the PD should be revised to provide a clear roadmap for the consideration and adoption of a multi-year forward procurement requirement that will apply to both local and system capacity requirements.

## **II. THE PD SHOULD BE MODIFIED TO PROVIDE A CLEAR ROADMAP FOR CONSIDERATION OF A MULTI-YEAR FORWARD PROCUREMENT REQUIREMENT**

The PD would defer consideration of a multi-year forward procurement requirement on the grounds that the issue will be addressed in the pending LTPP proceeding:

The Scoping Memo of the current LTPP proceeding, Rulemaking (R.) 12-03-014, commits to consider new rules for procurement of [a] multi-year flexible capacity for local reliability purposes, in coordination with Commission decisions on flexible capacity in this RA proceeding. The LTPP Scoping Memo also foresees an LTPP decision at or near the end of 2012 that may authorize or require Commission-jurisdictional Investor-Owned Utilities and/or other LSEs to contract for multi-year local reliability needs to the extent that the Commission finds there is such a need.<sup>4</sup>

The LTPP Scoping Memo, however, does not provide a clear path and process for addressing a multi-year forward procurement requirement this year. The only mention of a multi-year forward procurement requirement in the LTPP Scoping Memo is with respect to Track 3 of the proceeding.<sup>5</sup> The schedule for Track 3, however, does not identify any detailed process for considering the issue but merely provides that parties may file proposed rules on each of *fourteen* Track 3 issues by October 15, 2012 and reply comments on the proposed rules on

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<sup>3</sup> PD, at 13.

<sup>4</sup> PD, at 13.

<sup>5</sup> Scoping Memo, at 12 (Issue 12).

November 5. While the Scoping Memo anticipates a proposed decision on Track 3 issues in January 2013, it is unrealistic to believe that a multi-year forward procurement requirement can be developed and adopted simply on the basis of two sets of pleadings. Thus, the LTPP Scoping Memo currently does not provide a clear roadmap for consideration of a multi-year forward procurement requirement in the LTPP proceeding.

Establishing a multi-year forward procurement requirement is critical to the continued availability of existing resources required to maintain reliability going forward. To ensure this necessary reform to the RA program is timely undertaken, the PD should be revised to provide a detailed procedural schedule and an unequivocal commitment by the Commission to consider and adopt a multi-year forward procurement requirement.

### **III. MULTI-YEAR PROCUREMENT OF FLEXIBLE CAPACITY SHOULD APPLY TO BOTH *SYSTEM* AND LOCAL RELIABILITY NEEDS**

The PD provides that the Commission “will coordinate our efforts in this proceeding with efforts in the Long-Term Procurement Process proceeding (Rulemaking 12-03-014) to provide a method for contracting for multi-year *local* capacity needs.”<sup>6</sup> Throughout the PD, consideration of a multi-year forward procurement requirement is limited to local reliability needs. Not only is there is no benefit achieved from the Commission distinguishing local needs from system needs with regard to multi-year forward procurement, the Commission may actually reduce the overall benefits related to multi-year forward capacity procurement.

As the California Independent System Operator (“ISO”) has correctly noted, “without multi-year capacity contracts, existing flexible resources may not receive sufficient revenues from the energy and ancillary service markets to remain economically viable.”<sup>7</sup> The ISO’s position, however, is not limited to “local” requirements but rather aimed at addressing “system”

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<sup>6</sup> PD, at 2 (emphasis added).

<sup>7</sup> PD, at 12.

concerns: “the ISO seeks modifications to the Commission’s programs [through multi-year capacity contracts] to ensure that these flexible resources remain economically viable and available to them in order to maintain *system* reliability.”<sup>8</sup>

Limiting multi-year forward procurement to local reliability needs would undermine the benefits of this necessary reform to the RA program. Accordingly, the PD should be revised to provide that multi-year procurement of flexible capacity should apply to both *system* and local reliability needs.

Respectfully submitted,

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<sup>8</sup> PD, at 12 (emphasis added).

## **Appendix A**

### **Proposed Changes to Findings of Fact and Conclusions of Law**

### **Findings of Fact 3**

3. There is a need for refinements to the RA program to further define elements of flexibility with regard to multi-year contracts for local and system capacity requirements.

### **Conclusions of Law 5**

5 It is necessary to further consider issues related to multi-year forward procurement of local and system capacity requirements as expeditiously as possible in the LTPP Proceeding and issues related to flexible capacity in another portion of this proceeding such that definitions of which flexible attributes can or should be included for RA resources can inform any such multi-year forward procurement that may be authorized in the LTPP Proceeding.