

**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.

R.11-10-023  
(Filed October 20, 2011)

**REPLY COMMENTS OF NRG ENERGY, INC. ON  
PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE GAMSON**

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For  
**NRG ENERGY, INC.**

June 18, 2012

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In accordance with Section 14.3 of the California Public Utilities Commission's ("Commission's") Rules of Practice and Procedure, NRG Energy, Inc.<sup>1</sup> ("NRG") hereby submits these reply comments on the proposed *Decision Adopting Local Procurement Obligations for 2013 and Further Refining the Resource Adequacy Program*, issued by Administrative Law Judge David M. Gamson on May 2, 2012 ("PD").

**I. REPLY COMMENTS**

**A. The Commission Must Coordinate Overlapping Aspects of the Resource Adequacy ("RA") Proceeding and the Long-Term Procurement Planning Proceeding Regarding Multi-Year Forward Procurement and Incorporating Flexibility Requirements Into the RA Program**

Several parties, including the California Independent System Operator Corporation ("CAISO")<sup>2</sup>, the Calpine Corporation ("Calpine")<sup>3</sup>, the Center for Energy Efficiency and

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<sup>1</sup> NRG Energy, Inc. is the parent of Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, Long Beach Generation LLC and NRG Solar Blythe LLC, each of which owns and operates generating resources in California. Because the focus of this proceeding is on California market issues, NRG Energy, Inc. appears on behalf of these entities, referred to here as the NRG Companies.

<sup>2</sup> *California Independent System Operator Corporation Comments on Proposed Decision* ("CAISO Comments"). All comments referred to in this document were submitted in the above-captioned proceeding on June 11, 2012.

<sup>3</sup> *Comments of Calpine Corporation on Proposed Decision* ("Calpine Comments").

Renewable Technologies (“CEERT”),<sup>4</sup> the Clean Coalition,<sup>5</sup> the Division of Ratepayer Advocates (“DRA”),<sup>6</sup> EnerNOC,<sup>7</sup> and Pacific Gas & Electric Company (“PG&E”),<sup>8</sup> note the need to coordinate issues that touch on both the Resource Adequacy proceeding (R.11-10-023) and the Long-Term Planning Proceeding (“LTPP”) (R.12-03-014).

The two main issues that must be coordinated between these two proceedings are: (1) the need to consider multi-year forward procurement to address the gap between the one-year-ahead RA program focused on existing resources and the ten-year forward LTPP focused on the need for new resources; and (2) the incorporation of flexibility requirements into the RA program.

NRG supports the CAISO’s call to move expeditiously to incorporate flexibility requirements into the RA program.<sup>9</sup> NRG disagrees with arguments that the Commission can simply defer any action on incorporating flexibility requirements into the RA program until the need for flexibility is established through studies conducted through under the LTPP.<sup>10</sup> Any flexibility assessment can and should proceed in parallel with efforts to incorporate flexibility into the RA program. There is clearly a need for additional procurement of flexible resources, and California does not need to wait until the cliff is in sight before engaging in prudent planning. Moreover, it is critical that the Commission establish a baseline against which future gains in system flexibility will be measured. The only way to do so is to define the relevant product market *today* and then adopt policies to encourage the procurement of the identified

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<sup>4</sup> *Comments of the Center for Energy Efficiency and Renewable Technologies on the Proposed Decision on 2013 Local Procurement Obligations* (“CEERT Comments”) at 2.

<sup>5</sup> *Clean Coalition’s Comments on Proposed Decision Adopting Local Procurement Obligations for 2013 and Further Refining the Resource Adequacy Program* at 2.

<sup>6</sup> *Comments of the Division of Ratepayer Advocates on Proposed Decision Adopting Local Procurement Obligations for 2013 and Further Refining the Resource Adequacy Program* at 3-4.

<sup>7</sup> *Comments of EnerNOC, Inc., on Proposed Decision Adopting Local Procurement Obligations and RA Program Refinements* at 6.

<sup>8</sup> *Comments of Pacific Gas and Electric Company (U 39 E) on the Proposed Decision* at 2.

<sup>9</sup> CAISO Comments at 3-4.

<sup>10</sup> EnerNOC comments at 4-6, CEERT Comments at 2.

resources. Without such a baseline, it will be impossible to judge the success or failure of the Commission's program. Moreover, there is no downside to this type of prudent planning. If the Commission finds that existing procurement mechanisms (namely, the RA program) are sufficient to attract and retain sufficient amounts of system flexibility, then any flexibility deficiency rules developed as part of this proceeding will simply not be used.

NRG also supports Calpine's calls to (1) modify the PD to establish a clear road map for considering multi-year forward procurement of existing resources,<sup>11</sup> and (2) consider multi-year forward procurement for both system and local requirements.<sup>12</sup>

**B. Misplaced Cautions Regarding a “Flexibility Product” Should Not Affect the Need to Incorporate Flexibility Requirements into the RA Program.**

In its comments on the PD, the Distributed Energy Consumer Advocates (“DECA”) cautioned against creating a “flexibility product” on the grounds that doing so will (1) introduce inefficiency into the wholesale energy market; (2) prevent the realization of environmentally and economically optimal outcomes; (3) perpetuate environmental justice concerns by mandating the perpetual operation of “nearly century-old fossil-based energy production facilities”; and (4) strip the value from responsive demand, consequently reducing the incentives for distributed generation and green jobs.<sup>13</sup>

DECA's concerns are misplaced. *First*, any “flexibility product” that may affect the wholesale energy market would be developed and implemented through the California Independent System Operator Corporation (“CAISO”), not the Commission. The Commission may incorporate flexibility requirements into the RA program, but doing so does not amount to

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<sup>11</sup> Calpine Comments at 2-3.

<sup>12</sup> Calpine Comments at 3-4.

<sup>13</sup> *Comments of the Distributed Energy Consumer Advocates on the Proposed Decision Adopting Local Procurement Obligations for 2013 and Further Refining the Resource Adequacy Program* (“DECA Comments”) at 2-3.

creating a wholesale market “flexibility product”. *Second*, DECA provides no evidence that a “flexibility product” would result any of the draconian outcomes that DECA posits. *Finally*, there is no reason why distributed, demand or storage resources could not provide a properly-designed “flexibility product” just as effectively as fossil-fuel or hydro generation.

The CAISO is currently conducting a stakeholder process to develop a so-called “Flexible Ramping Product”. DECA is welcome to raise its concerns in that process. However, the Commission should not allow DECA’s cautions about a “flexibility product” to cloud the discussion – and the need for timely action – regarding incorporating flexibility requirements in the RA program.

#### **IV. CONCLUSION**

NRG appreciates the opportunity to submit these reply comments and respectfully asks the Commission take action consistent with the discussion herein.

Respectfully submitted,

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