

**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)

**RESPONSE OF THE ALLIANCE FOR RETAIL ENERGY MARKETS
TO THE PETITION OF PACIFIC GAS AND ELECTRIC COMPANY
TO MODIFY DECISION 12-06-025**

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Date: August 30, 2012

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I. INTRODUCTION

On July 31, 2012, Pacific Gas and Electric Company (“PG&E”) submitted a Petition to Modify California Public Utilities Commission (“CPUC” or “Commission”) Decision (“D.”)12-06-025 (“Petition”). In the Petition, PG&E seeks a modification “to the existing timeline for the monthly resource adequacy submissions that Commission -jurisdictional load serving entities (LSEs) are required to make to the Commission”¹ so that the Commission’s timeline will match the timeline that the California Independent System Operator (“CAISO”) has said it intends to implement in connection with its replacement requirement for scheduled generation outages. Specifically, PG&E’s Petition notes that the CAISO’s Board of Governors has authorized the CAISO to file tariff amendments with the Federal Energy Regulatory Commission (“FERC”) that will require load serving entities (“LSEs”), including those subject to the jurisdiction of the CPUC, to submit a

¹ See Petition, page 2

preliminary resource adequacy (“RA”) plan to the CAISO 45 days before the beginning of each month. The Petition also notes that, under current Commission regulations, Commission-jurisdictional LSEs are required to submit their monthly RA plans 30 days before the beginning of each month. The Petition requests that the Commission revise its monthly RA submission timeframe to match that of the CAISO, such that Commission-jurisdictional LSEs will submit their monthly RA plans 45 days before the beginning of each month. Significantly, PG&E’s only request is to move the date of the month-ahead RA showing. PG&E has not requested to adjust other dates associated with the monthly RA process, such as the dates for submitting the LSEs’ load forecasts or for receiving the monthly RA templates or the RA credits.²

In accordance with Rule 16.4(f) of the Commission’s Rules of Practice and Procedure, the Alliance for Retail Energy Markets (“AReM”) ³ submits this response to the Petition and urges the Commission to deny the Petition, because (i) the CAISO’s proposal has not been submitted to FERC, much less approved, and is therefore premature, (ii) there is no need for the CAISO and Commission timelines to be identical, and (iii) the Petition is procedurally improper and does not comport with the Commission’s Rules of Practice and Procedure (“Rules”). These reasons for denying the Petition are explained in more detail in Section III below.

If the Commission is nevertheless inclined to grant the Petition, there are additional issues associated with the RA compliance timeline that must be addressed as explained in more detail below.

² These include capacity credits provided to LSEs as a result of the application of the Cost Allocation Mechanism (“CAM”), CAISO contracts for Reliability Must-Run (“RMR”) units, utility demand response programs and other CPUC or CAISO programs that provide RA capacity credits to LSEs.

³ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

II. BACKGROUND

The Petition notes that D.12 -06-025 eliminated, beginning with the 2013 RA compliance year, the requirement that LSEs replace RA capacity resources when the resources are on scheduled outages. The CAISO has conducted a stakeholder process to implement resource replacement rules, and on July 7, 2012, the CAISO's Board of Governors authorized the CAISO's staff to prepare a filing with FERC to implement its proposal. The CAISO has issued several versions of draft tariff language to stakeholders for comments, most recently on August 30, 2012.

III. RESPONSE

A. The Petition Should Be Denied.

The Petition should be denied. First, the CAISO has yet to make a tariff filing with FERC to implement its proposal for replacement of RA during outages. As a result, it is not known whether there will be opposition to the filing or how long it will take FERC to act on the tariff filing. Given the comments that parties have submitted to the CAISO with respect to its proposal and the draft tariff language, AReM considers it likely that some parties will at least ask FERC to consider modifications to the tariff filing, and that some may oppose the filing outright. For instance, the Commission Staff, in comments submitted to the CAISO on August 7, 2012, objected to language in the draft tariff that they believe conflicts with Commission policy. The Staff's concerns do not appear to be fully addressed in the CAISO's August 15, 2012 revised draft tariff language.⁴ Resolution at FERC of any requested modifications could delay implementation of the proposed tariff modifications until after monthly showings for the 2013

⁴ The CAISO released additional revisions to its proposed tariff language on August 30, 2012, but AReM did not have time to review before filing this response.

RA year begin on November 30, 2012. Given the uncertainties about whether and when the CAISO's capacity replacement program will be in place, PG&E's petition is premature.

Second, there is no fundamental reason why the Commission's timeline for RA showings needs to match the CAISO's proposed timeline. The CAISO's request for monthly RA showings 45 days before the beginning of the month is for the purpose of allowing the CAISO to initiate its evaluation as to whether the supplier of the RA capacity an LSE intends to use for the coming month has scheduled an outage requiring replacement that was not addressed in the LSE's showing. Once that evaluation is complete, the CAISO will notify the LSE if replacement is necessary. If so, the LSE will have until ten days before the beginning of the month to have secured the necessary replacement capacity, unless excused by the CAISO. On the other hand, the Commission's RA compliance deadline for monthly showings 30 days ahead of the beginning of the month serves an entirely different purpose – to determine whether an LSE has secured adequate System and Local RA capacity to meet the Commission's defined RA requirements. Since the Commission's review of RA compliance filings will not include an evaluation of the CAISO's outage replacement requirements, there is no need to move the timeframe forward so that monthly RA showings submitted to the CPUC match the CAISO's proposal.

For both these reasons, the Commission should deny the Petition, and allow all LSEs the maximum amount of time to manage their RA procurement, which the current 30-day ahead CPUC process provides.

B. If the Commission grants the Petition, it must also modify the full timeline for the RA monthly process.

As noted above, AReM believes that there is no need to modify the Commission's RA compliance timeline to match what the CAISO is proposing in connection with management of

replacement capacity for outages. If the Commission nevertheless considers granting the Petition such that all LSEs must make their monthly RA showing 45 days before the beginning of the month, the Commission must also ensure that the provision of RA forecasts, adjustments for load migration, RA capacity credits and compliance templates are also accelerated by the same 15-day time period. In particular, RA capacity credits directly affect an LSE's procurement and, if the credits are provided too late in the monthly process, the LSE will over-procure, thereby creating inefficiencies and potentially higher costs for their customers. Moreover, as the Commission well knows, the procurement of monthly RA can be difficult, especially when the Investor Owned Utilities ("IOUs"), including PG&E, refrain until the last minute from making their excess capacity available for sale to other LSEs. Requiring a 45-day ahead showing with other steps in the monthly RA process left unmodified, as PG&E proposes, would compress the time schedule even further, thereby exacerbating these problems and increasing the inherent market power enjoyed by the IOUs.

To avoid this problem, the Commission should (a) modify the timeline for all the monthly RA steps, including provision of RA credits, revised load and monthly templates and (b) refrain from implementing the new timeframe until it has received assurances from the California Energy Commission ("CEC") that it can and will evaluate the LSEs' forecasts earlier and that the Commission Staff can and will produce the RA templates, with the RA allocations, earlier as well.

C. The Petition is Procedurally Improper

Although couched as a petition to modify the Commission's recent decision, D.12-06-025, PG&E actually seeks to modify a much earlier decision, D.05-10-042. Modification of a decision issued more than a year before the filing of a petition for modification requires a

showing by the petitioner as to “why the petition could not have been presented within one year of the effective date of the decision.”⁵ PG&E overlooks and fails to comply with this requirement by the device of attempting in its Petition to modify the more recent decision. The problem with this approach is that the timeline for monthly decisions is not discussed in D.12 -06-025. Rather, as noted by PG&E in its Petition , the timeline was discussed in D.05 -10-042, “Under D.05 -10-042 each monthly compliance filing is to be submitted on “the last day of the second month prior to the compliance month (e.g., March 31 for 3 May)” (section 8.5, page 90).”⁶ Therefore, the Petition is deficient because it seeks to modify the wrong decision by inserting in the more recent decision a topic that was not contained in it.

Furthermore, the Petition also fails to comply with the requirement that a petition for modification, “must propose specific wording to carry out all requested modifications to the decision.”⁷ PG&E notes the relevant discussion in the earlier decision and suggests the change from 30 to 45 days, but does not offer any specific wording changes to D.12 -06-025 despite the requirement that it do so. Put simply, the Petition is procedurally improper and should be rejected for that reason.

IV. CONCLUSION

AReM urges the Commission to deny the Petition because it is premature, the requested change is unneeded and it fails to comply with the Commission’s Rules of Practice and Procedure pertaining to petitions for modification. If the Commission nevertheless considers granting PG&E’s requested modification, AReM respectfully requests that the Commission

⁵ Rule 16.4(d).

⁶ Petition, at pages 2-3.

⁷ Rule 16.4(b).

address the additional issues raised herein with respect to other required modifications to the RA compliance timeline.

Respectfully submitted,

A handwritten signature in black ink that reads "Sue Mara". The signature is written in a cursive, flowing style.

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