

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Integrate and Refine
Procurement Policies and Consider Long-Term
Procurement Plans.

Rulemaking 12-03-014
(Filed March 22, 2012)

**OPENING BRIEF OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON TRACK I ISSUES**

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TABLE OF CONTENTS

	Page
I. EXECUTIVE SUMMARY	3
II. DETERMINATION OF LOCAL CAPACITY REQUIREMENTS (LCR) NEED IN CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO) STUDIES	3
A. CAISO’s LCR and Once-Through Cooling (OTC) Generation Studies	3
B. Consideration of Preferred Resources, Including Uncommitted Energy Efficiency, Demand Response, Combined Heat and Power, and Distributed Generation, in Determining Future LCR Needs	4
C. Appropriate Assumptions Concerning Retirement of OTC Generation	6
D. Transmission and Other Means of Mitigation	6
III. DETERMINATION OF LCR NEED SPECIFIC TO LA BASIN AND BIG CREEK/VENTURA AREA	6
A. LA Basin	7
B. Big Creek/Ventura Area	7
IV. PROCUREMENT OF LCR RESOURCES AND INCORPORATION OF THE PREFERRED LOADING ORDER IN LCR PROCUREMENT	7
A. Incorporation of the Preferred Loading Order in LCR Procurement	7
B. Other Commission Policies and Consideration Affecting LCR Procurement	8
C. If a Need Is Determined, How the Commission Should Direct LCR Need To Be Met	9
D. Appropriate Methods of Procurement	9
E. Timing of Procurement	9
V. INCORPORATION OF FLEXIBLE CAPACITY ATTRIBUTES IN LCR PROCUREMENT	10
A. If a Need Is Determined, Should Flexible Capacity Attributes Be Incorporated into Procurement	10
B. Additional Rules, Not Already Covered by Resource Adequacy (RA) Rules, To Govern LCR Procurement	11
VI. COST ALLOCATION MECHANISM (CAM)	11
A. Proposed Allocation of Costs of Needed LCR Resources	11
B. Should CAM Be Modified at this Time?	11
C. Should Load Serving Entities (LSEs) Be Able To Opt out of CAM?	11
VII. OTHER ISSUES	12

TABLE OF CONTENTS
(continued)

	Page
A. SCE Capital Structure Proposal	12
B. Coordination of Overlapping Issues Between R.12-03-014 (LTPP), R.11-10-023 (RA), and A.11-05-023	12
C. SCE Statewide Cost Allocation Proposal	12
D. CAISO Backstop Procurement Authority To Avoid Violating Federal Reliability Requirements	12
E. Energy Storage.....	12
VIII. CONCLUSION.....	12

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Track I of this Long-Term Procurement Proceeding (LTPP) is focused on two broad issues: (1) identifying the local capacity requirements of the Los Angeles and Big Creek/Ventura local areas, and (2) determining the best way for the investor-owned utilities (IOUs) to procure that capacity. Subsumed in these broad issues are a number of more specific topics, including the role of preferred resources in meeting local capacity needs, accommodating retirement of units using once-through cooling (OTC), the need for flexible resources, and the mechanisms for procurement.

In this brief, the Independent Energy Producers Association (IEP) addresses these issues. In summary, IEP recommends the following:

- The Commission should authorize procurement of a quantity of resources to meet local capacity requirements through competitive means.
- The Commission should wait for the completion of studies necessary to determine the need for, and preferred characteristics of, flexible resources before authorizing specific procurement of flexible resources (for the purpose of providing either local or system-wide flexibility).

- If the IOUs can make a showing that solicitations for procurement of resources in certain local areas were issued and found to be not workably competitive, the IOUs should be allowed to negotiate cost-based Power Purchase Agreements (PPAs) to serve the need for a specified duration of time.
- The Commission should set procurement targets based on overall grid reliability needs and resource policy objectives, then provide procurement vehicles (*e.g.*, Requests for Offers (RFOs)) for Load-Serving Entities (LSEs) to procure their Incremental Needs.
- Preferred resources previously included as “uncommitted resources” would be permitted to participate in all-source solicitations to meet the identified Incremental Need, and would be appropriately counted as committed once selected; preferred resources selected in the solicitations would be subject to meeting performance obligations on par with other resources.
- The Commission should establish longer-term need for flexible resources in the current LTPP proceeding, which will require working with the California Independent System Operator (CAISO) to 1) define with specificity the flexible capacity products or operational attributes the CAISO believes it needs to ensure reliability, 2) establish a schedule for the completion of studies for local and system-wide flexibility needs, and 3) finalize the CAISO’s studies on system flexibility.

- Once the need for flexible resources is determined in later phases of this proceeding, the Commission should require IOUs to meet their flexible procurement obligations through competitive means.

IEP's review of the initial Track I testimony discerned a broad consensus on a variety of issues. For that reason, IEP does not currently see a need to comment on several of the issues identified in the common briefing outline, but IEP reserves the right to comment in its reply brief on issues and positions stated in other parties' opening briefs that are not consistent with IEP's understanding of the parties' positions in Track I.

I. EXECUTIVE SUMMARY

IEP agrees with the CAISO's assessment of the need to procure additional resources in the Los Angeles and Big Creek/Ventura local areas. The needed resources should be procured through all-source competitive solicitations open to all resources that can supply the needed products with the operational characteristics the CAISO identifies and the Commission authorizes. However, in certain circumstances where there may not be enough bidders to ensure a competitive outcome, the IOUs should negotiate cost-based PPAs with the generators that are capable of providing Resource Adequacy (RA) capacity and energy.

II. DETERMINATION OF LOCAL CAPACITY REQUIREMENTS (LCR) NEED IN CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO) STUDIES

The active parties in this proceeding, including IEP, agree that replacement capacity is needed to replace retiring units using OTC.¹

A. CAISO's LCR and Once-Through Cooling (OTC) Generation Studies

The CAISO studies confirm that the retirement of some existing OTC units would result in a need for some form of new resources (or additional transmission upgrades beyond

¹ Exh. IEP-1, pp. 5, 8 (Monsen/IEP).

those already assumed by the CAISO) to meet local reliability requirements. It is also clear that the CAISO studies do not yet provide enough information to determine the need for specific amounts of additional flexibility.²

The Commission should authorize procurement of a quantity of resources needed to meet local capacity requirements through competitive means as an outcome of Track I of this proceeding. At the same time, it is premature for the Commission to authorize specific procurement of flexible resources (for the purpose of providing either local or system-wide flexibility) as part of its Track I decision, because the CAISO's studies necessary to determine the need for, and preferred characteristics of, flexible resources have not yet been finalized. Once the CAISO has completed its studies on the need for flexible resources, the final results can be considered in Track II of this proceeding and incorporated in the Commission's procurement authorization to the IOUs.

B. Consideration of Preferred Resources, Including Uncommitted Energy Efficiency, Demand Response, Combined Heat and Power, and Distributed Generation, in Determining Future LCR Needs

As the CAISO witness pointed out, reliance on "uncommitted resources" to meet long-term local resource requirements is risky.³ If the "uncommitted" resources do not show up as planners expect, then local grid reliability could be undermined due to a lack of capacity. It is not unusual for new conventional resources that might be needed if the uncommitted resources fail to materialize to require 6-8 years or more to move from a planned project, through the RFO selection process, then through the construction phase, to achieve a commercial online date (COD).

² Exh. IEP-1, p. 8 (Monsen/IEP).

³ Exh. ISO 1, p. 15 (Sparks/CAISO).

The Commission’s LTPP proceedings often reflect two visions of resource planning and procurement, and this proceeding presents an opportunity to meld the two visions together. One vision is the perspective of the grid operator and others who are primarily concerned with overall grid reliability. The other vision reflects the desire of policy planners to establish “stretch goals” to promote the development of preferred resources. While many parties to this proceeding take one perspective or the other, IEP proposes a bridge between these two different visions.

First, while policy goals may be set based on aspirations, the Commission should set actual procurement *targets* based on overall grid reliability needs and resource policy objectives. Next, the Commission should provide procurement vehicles (*e.g.*, RFOs) for LSEs to procure their Incremental Needs, based on committed resources, *i.e.*, the resources that are willing to commit to be available at the projected time of need, and defined as follows:

$$\text{Incremental Need} = [\text{Forecast Load}]^4 - [\text{Forecast Supply, including committed energy efficiency (EE), committed demand response (DR), committed distributed generation (DG), committed combined heat and power (CHP), and committed conventional resources}]$$

In this manner, the Commission and the CAISO will have significantly greater assurance that the resources it anticipates will be available to serve load will actually be physically available to ensure overall grid reliability. All selected resources (including the preferred resources) will be committed to be available as expected and planned, subject to performance obligations on par with other resources.

Under this approach, the competitive RFO process would become a vehicle to help facilitate achievement of the “stretch policy goals” while providing the grid operator a greater measure of assurance that planned and procured resources will actually be available to

⁴ Forecast Load would not include committed EE, DR, or behind-the-meter DG or CHP.

meet demand over the 10-year planning horizon. Uncommitted resources and the risk that they never appear would no longer be a part of the supply/demand balance.

On the other hand, the policy stretch goals reflected in “uncommitted” resources will remain as policy objectives. To the extent that uncommitted resources are unable to qualify to compete in an all-source RFO and thus remain outside the procurement mechanism of the LTPP, as they materialize and take effect, they will reduce the amount of demand and thus lower the amount of procurement that will be identified in subsequent LTPP proceedings. In addition, programmatic funding will help move these “uncommitted resources” toward commitment and incorporation in later LTPP proceedings as committed resources.

C. Appropriate Assumptions Concerning Retirement of OTC Generation

For purposes of this proceeding, the Commission should base its assumptions about the retirement of OTC generation on the plans that the owners of the OTC units submitted to the State Water Resources Control Board. The owners and operators of the OTC plants are in the best position to decide which of the compliance options, including retirement, best fit their needs.

D. Transmission and Other Means of Mitigation

IEP has no comments on this section but reserves the right to address the parties’ arguments on this topic in its reply brief.

III. DETERMINATION OF LCR NEED SPECIFIC TO LA BASIN AND BIG CREEK/VENTURA AREA

The CAISO presented detailed testimony about the development of the estimated new capacity that is needed to maintain reliability in the Los Angeles and Big Creek/Ventura local areas. That testimony supports the CAISO’s conclusion that about 1200 MW will be

needed in the Los Angeles and Big Creek/Ventura local areas.⁵ IEP agrees that the Commission should authorize procurement of at least 1200 MW through all-source solicitations open to all resources that can meet the operational requirements identified by the CAISO and that can meet performance requirements comparable to conventional generation.

A. LA Basin

The CAISO's recommendations are the best estimates of need in this local area. Using the Trajectory RPS Scenarios, the CAISO projects that there is an identified need for approximately 2400 MW of replacement OTC generation in the Western LA Basin in 2021, if the generation is selected from the most effective sites for mitigating the Western LA Basin transmission constraint. The CAISO also identified a need for 225 MW in the Ellis sub-area (which is included in the Western LA Basin).⁶

B. Big Creek/Ventura Area

Using the Trajectory scenario, the CAISO identified a need for 430 MW of replacement OTC generation in the Moorpark sub-area.⁷

IV. PROCUREMENT OF LCR RESOURCES AND INCORPORATION OF THE PREFERRED LOADING ORDER IN LCR PROCUREMENT

One of the most hotly contested issues in this proceeding is how the procurement of local capacity resources can accommodate the loading order of the Energy Action Plan and other policy determinations that favor the development of certain types of technologies.

A. Incorporation of the Preferred Loading Order in LCR Procurement

Preferred resources should participate in an all-source solicitation on the same basis and subject to the operational requirements as conventional resources.

⁵ Exh. ISO 4, pp. 4-5 (Rothleder/CAISO).

⁶ Exh. ISO 1, p. 17 (Sparks/CAISO).

⁷ Exh. ISO 1, p. 17 (Sparks/CAISO).

To develop an RFO in which all sources can compete on an equal basis, the IOU will need to clearly define the performance requirements and obligations of the various products the IOU is seeking. Once there are clear definitions of those products, all resources that can help meet the CAISO's local capacity requirements should be allowed to bid to supply the defined local capacity products. All resources that are ultimately selected should face comparable performance assurance obligations and other delivery responsibilities. Comparable requirements allow for a fair comparison between disparate resource types and also provide the CAISO with assurance that the resources would ultimately deliver as promised.⁸

Differences among the various preferred resources present different challenges to maintaining the fairness of the all-source solicitation. Generation resources (including combined heat and power and grid-connected distributed generation resources) can typically demonstrate performance through performance tests. In addition, these resources typically have a single counterparty, *i.e.*, the owner or operator of the resource, that is responsible for performance. They have well-defined locations and can easily demonstrate that they are capable of providing local capacity. It might be more difficult for energy efficiency and demand response to provide similar assurances. However, it will be critical for these resources to be held accountable for non-performance on par with conventional generation resources if they are to be used to defer or replace generating resources.⁹

B. Other Commission Policies and Consideration Affecting LCR Procurement

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

⁸ Exh. IEP-1, p. 15 (Monsen/IEP).

⁹ Exh. IEP-1, p. 15 (Monsen/IEP).

C. If a Need Is Determined, How the Commission Should Direct LCR Need To Be Met

The Commission should authorize the IOUs to procure resources to meet the level of local capacity requirements identified by the CAISO but also acknowledge that the need could be met by both supply resources and other preferred resources if they are “committed.” The LSEs should hold all-source RFOs to procure local capacity. If the LSEs are able to procure committed “supply” from preferred resources like energy efficiency and demand response, then the forecasted demand will be lower and the need for supply-side resources to meet demand will also be reduced. On the other hand, if the LSEs are unable to obtain firm commitments from suppliers of preferred resources, then the LSE should move quickly to fill local need from more conventional resources. These solicitations should result in PPAs that require all resources to provide assurance of delivery at the locations proposed and that include penalty provisions for failure to perform.

D. Appropriate Methods of Procurement

Consistent with the Commission’s policies, competitive all-source solicitations for clearly defined products are the preferred method of procurement.¹⁰ However, in certain circumstances where there may not be enough bidders to ensure a competitive outcome, the IOUs should negotiate cost-based PPAs with the generators that are capable of providing RA capacity and energy.¹¹

E. Timing of Procurement

IEP has no comments on this section but reserves the right to address the parties’ arguments on this topic in its reply brief.

¹⁰ *E.g.*, D.07-12-052, pp. 212-213 (“We firmly believe that all long-term procurement should occur via competitive procurements, except in truly extraordinary circumstances” (emphasis in original)).

¹¹ See AB 1567 (Stats. 2005, ch. 374), Public Utilities Code § 454.6.

V. **INCORPORATION OF FLEXIBLE CAPACITY ATTRIBUTES IN LCR PROCUREMENT**

Another controversial topic in this proceeding concerned the extent to which resources procured to meet local capacity requirements should also be required to have certain flexible operational capabilities.

A. **If a Need Is Determined, Should Flexible Capacity Attributes Be Incorporated into Procurement**

For procurement to meet the local reliability need identified in this proceeding, any needed flexible capacity attributes should be incorporated into the product definitions. The Commission should define with specificity the products that CAISO believes it needs to ensure reliability as greater levels of renewable energy resources begin operation. The CAISO should define these products so that parties clearly understand the specific attributes that the CAISO seeks.

Developing specific definitions of flexible products has proven to be controversial. The CAISO made a proposal in the RA proceeding regarding specific flexibility products,¹² but there was some disagreement among the parties regarding whether the CAISO's proposal for categorization of flexible products for local RA was appropriate. In the recent decision in the current RA proceeding, the Commission noted that the CAISO's proposal for defining flexible resources in the context of local RA was not "sufficiently detailed and ready for implementation at this time."¹³ However, without a definition of the local flexibility products that LSEs need to procure, or even the metrics with which to measure the performance of

¹² California Independent System Operator Corporation, Proposal on Phase 1 Issues, R.11-10-023, January 13, 2012 (Attachment I); and California Independent System Operator Corporation, Submission of Supplemental Information to Proposal, R.11-10-023, March 2, 2012 (Attachment J).

¹³ D.12-06-025, p. 2.

resources proposing to provide these resources, it will be difficult, if not impossible, to procure the least-cost portfolio of flexible local (or system) resources.

The CAISO is in the process of studying the flexibility requirements for the CAISO system, but it has not yet completed those studies.¹⁴ When those studies are completed, the Commission should consider the final results of the studies in this proceeding and identify the nature, amount, and timing of needed flexibility to guide any procurement authorized in this proceeding.

B. Additional Rules, Not Already Covered by Resource Adequacy (RA) Rules, To Govern LCR Procurement

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

VI. COST ALLOCATION MECHANISM (CAM)

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

A. Proposed Allocation of Costs of Needed LCR Resources

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

B. Should CAM Be Modified at this Time?

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

C. Should Load Serving Entities (LSEs) Be Able To Opt out of CAM?

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

¹⁴ Exh. 4, p. 7 (Rothleder/CAISO) (“Q. Has the ISO completed its studies of potential system flexibility requirements? A. No, our studies are ongoing in this regard.”)

VII. OTHER ISSUES

A. SCE Capital Structure Proposal

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

B. Coordination of Overlapping Issues Between R.12-03-014 (LTPP), R.11-10-023 (RA), and A.11-05-023

The fact that all three proceedings have overlapping issues creates a great potential for confusion. The Administrative Law Judges and Assigned Commissioners in these proceeding should continue to strive to stay closely coordinated, to reduce duplication, and avoid inconsistent treatment of the same or similar issues.

C. SCE Statewide Cost Allocation Proposal

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

D. CAISO Backstop Procurement Authority To Avoid Violating Federal Reliability Requirements

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

E. Energy Storage

IEP has no comments on this section but reserves the right to address the parties' arguments on this topic in its reply brief.

VIII. CONCLUSION

For the reasons stated in this brief, the Independent Energy Producers Association respectfully urges the Commission to authorize additional procurement for resources in the Los Angeles and Big Creek/Ventura local areas in the amounts recommended by the California Independent System Operator. All such procurement should be conducted through all-source

competitive solicitations open to all resources that can supply the needed product with the operational characteristics the CAISO identifies and the Commission authorizes. However, in certain circumstances where there may not be enough bidders to ensure a competitive outcome, the IOUs should negotiate cost-based PPAs with the generators that are capable of providing RA capacity and energy.

Respectfully submitted this 24th day of September, 2012 at San Francisco, California.

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