

**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)

**COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON TRACK 3 RULES
ISSUES**

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ISSUES**

The Independent Energy Producers Association (IEP) submits the following comments on the issues related to procurement rules listed in the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, issued on May 17, 2012.

I. FLEXIBLE RESOURCES PROCUREMENT AND CONTRACT POLICIES

Flexible attributes will play an important role as the California Independent System Operator (CAISO) and the electric utilities seek to integrate increasing levels of intermittent renewable energy while maintaining the reliability of the grid. Flexible products should be defined and recognized as an important product in the Long-Term Procurement Plan (LTPP) and Resource Adequacy (RA) proceedings. Accordingly, the type, amount, and location of flexible attributes should be a component of the forecasted need identified in the LTPP and RA proceedings. The LTPP proceeding is a convenient and logical forum for identifying the flexible products or resources needed to maintain overall grid reliability over the 10-year planning horizon, and the Commission in the LTPP should direct procurement and establish

contracting policies to ensure that resources with the required attributes are available to meet the forecasted need.

The LTPP planning process must be sufficiently transparent regarding the need for flexible resources to attract investment in new resources or upgrades to existing resources to provide the specific flexible attributes that are needed over the planning horizon. In addition, the utilities' procurement practices, particularly the bid evaluation methodology and criteria, must be sufficiently transparent to inform bidders of the relative value of flexible attributes in comparison with the other critical factors used to evaluate bids and projects.

All resources that are able to supply the needed flexible products should be provided an opportunity to compete and sell these products to the load-serving entities. All resources selected to provide these products should be required to make comparable commitments to meet performance obligations to ensure competitive fairness among different types of supply resources.

II. PRESERVING COMPETITION IN THE RESOURCE ADEQUACY MARKET

The current RA capacity market has few of the characteristics of open, competitive markets. The Commission's goal in this area should be to introduce more competitive elements and not just to preserve the existing, low levels of competition. As the Commission considers proposals to expand the RA market to include additional flexibility products and multiyear procurement of RA capacity, it should also take steps to introduce more transparency into the RA market.

III. ENSURING UTILITIES REDUCE THEIR NEED TO PROCURE GHG COMPLIANCE INSTRUMENTS BY PURSUING COST-EFFECTIVE GHG EMISSIONS REDUCTIONS ON A PORTFOLIO-WIDE BASIS

The most critical factor in ensuring that utilities pursue *cost-effective* greenhouse gas (GHG) emissions reductions on a portfolio-wide basis is to ensure that carbon is properly

and accurately priced in the marketplace. If GHG emissions are properly priced, this information will help inform the selection of low- or no-carbon generation resources or cost-effective, alternative resources such as energy efficiency.

The importance of properly pricing GHG emissions applies equally to imports. GHG-emitting in-state generation is subject to a direct carbon compliance obligation based on reported emissions. On the other hand, the California Air Resources Board (CARB) has developed a methodology for imputing a default emissions factor for unspecified imports based on the average emissions of the marginal operating unit, which translates into an emissions factor of approximately 944 lbs/CO₂/MWh, roughly equivalent to a relatively clean natural gas facility. Out-of-state suppliers, accordingly, have an incentive not to specify their resources if their emissions exceed the default factor; and, purchasing utilities have an incentive to buy unspecified imported electricity irrespective of whether the emissions from the source generator exceeds the default emissions factor. The effect is to encourage leakage and to counteract the intent of California's GHG emissions reduction program.

IV. ADDRESSING ANY UNRESOLVED ISSUES OR ISSUES THAT NEED TO BE REVISITED FROM THE 2010 LTPP RELATED TO GHG COMPLIANCE PRODUCT PROCUREMENT AUTHORITY

IEP has no comments on this topic at this time.

V. ESTABLISHING A FAIR STANDARD UNDER WHICH TO COMPARE UTILITY-OWNED GENERATION RENEWABLE APPLICATIONS TO OTHER RECENT RENEWABLE PROPOSALS AND CONTRACTS

The Commission has recently articulated a clear standard for the treatment of non-renewable utility-owned generation (UOG) projects. Specifically, in Decision (D.) 12-04-046, the Commission stated that UOG projects could be considered only if they are preceded by a

“failed” Request for Offers (RFO).¹ The Commission excepted renewable projects from this standard,² however, continuing an exception that appears to have originated in a fear that the utilities would be unable to meet their Renewable Portfolio Standard (RPS) goals unless they had the authority to construct and own renewable generation projects. That fear may have been valid in the early years of the RPS program, but recent RFOs have attracted numerous bids, and competitive pressures have dramatically reduced the price of renewable energy.

In these circumstances, the Commission should extend the standard adopted in D.12-04-046 to renewable UOG proposals, with one refinement: a UOG project should be considered only if the “failed” RFO occurred within the six months preceding the UOG application. Six months is an appropriate duration to ensure that the UOG project is being considered contemporaneously with the failed RFO.

VI. MAKING ENHANCEMENTS TO THE ENERGY RESOURCE RECOVERY ACCOUNT COMPLIANCE FILING REQUIREMENTS

IEP has no comments on this topic at this time.

VII. OTC POWER PROCUREMENT POLICIES

This issue has two aspects: rule for contracting with units using once-through cooling (OTC) and rules for replacement of retiring OTC units.

On the first issue, IEP has previously articulated a simple principle:

Consistent with Commission-approved procurement rules and practices, utilities should be able to enter into contracts to procure the output of OTC plants to meet resource or grid reliability needs as long as and to the extent that the plants comply with the policies and rules of the State Water Resources Control Board (SWRCB), the state agency responsible for implementing Section 316(b) of the Federal Clean Water Act, evaluating the effects of OTC on

¹ D.12-04-046, p. 38.

² D.12-04-046, p. 30.

marine life, and setting the restrictions on the operations of OTC plants.³

On the second issue, IEP urges that replacement of OTC resources not be delayed until the next LTPP proceeding. The need created by retiring OTC resources can and should be identified and addressed in this current LTPP proceeding. All resources capable of meeting the identified need should be eligible to compete to meet that need. All resources selected to meet that need should be bound by comparable performance standards and obligations.

VIII. NUCLEAR FUEL PROCUREMENT POLICIES

In light of recent public statements regarding the status of the SONGs units from both federal regulators and the owner/operator(s), it would be imprudent not to consider procurement scenarios in which the production from the nuclear facilities is significantly constrained over not only over the 10-year long-term planning horizon, but perhaps over the short-term planning horizon. Delaying consideration of how replacement power will be procured appears to be a sensible step at this point in time.

IX. POLICIES RELATED TO ISO NEW MARKETS AND MARKET PRODUCTS, INCLUDING FLEXI-RAMP PRODUCTS AND INTRA-HOUR PRODUCTS

As the CAISO identifies specific needs to maintain overall grid reliability, these needs should be integrated into the demand and supply forecasts developed in the resource planning process, including the California Energy Commission's Integrated Energy Policy Report and the LTPP proceeding. Procurement processes should be designed to ensure that these needs are met on time and at the lowest feasible cost. The Commission's LTPP proceeding should be viewed as the primary forum for authorizing procurement of new resources to meet the forecasted need. The RA proceeding can be a useful tool for procuring near-term resources

³ *Comments of the Independent Energy Producers Association on the Proposed Decision on Tracks I and III of the Long-Term Procurement Plan Proceeding*, March 12, 2012, R.10-05-066, p. 6.

needed in the following 1-5 years, depending on how its structured. The key in each case is to develop a clear definition of the needed product, and then to let all resources that are capable of providing the product bid in a competitive solicitation.

Intra-hour scheduling provides a means for intermittent resources to adjust their schedules closer to real-time, and to send better signals to the CAISO and the market of their expected production in the hour. Intra-hour scheduling helps reduce scheduling deviations. The Flexi-ramp products will help procure cost-effective resources to essentially backfill for deviations in schedules. Together, these two features should significantly reduce the impact of unanticipated deviations on overall grid reliability.

In addition, the Commission needs to consider and address cost allocation for products the CAISO charges to integrate renewables and maintain overall grid reliability. As a practical matter, nearly all generation infrastructure investment in California today is driven by public policy (e.g. the California RPS, the California Combined Heat Power initiative, the California Distributed Generation initiative, etc.) and/or the needs of the electrical grid to serve that policy and/or load. As a result, generation infrastructure investment in California is driven primarily by the decisions of the load-serving entities (LSEs). To the extent that CAISO-related integration costs arise, the market design in California compels the conclusion that the root “cause” of the need for CAISO integration products and services primarily derives from the procurement practices of the LSEs. The solution for minimizing integration costs, therefore, is to incent better LSE procurement practices up-front.

To the extent that CAISO related costs should be borne by generators in order to incent better LSE procurement practices, then a reasonable means of cost-recovery for CAISO incurred costs (if any) must be made available *prior to any transition* to an environment in which

such costs are imposed directly on generators. Otherwise, the CAISO risks undermining grid reliability as electric generators face costs for which they have no reasonable means of cost recovery.

X. REFINEMENTS TO THE PROCUREMENT REVIEW GROUP

IEP has no comments on this topic at this time.

XI. REFINEMENTS TO THE INDEPENDENT EVALUATOR PROCESS

IEP has no comments on this topic at this time.

XII. MULTI-YEAR FORWARD PROCUREMENT REQUIREMENTS

Multiyear forward procurement helps mitigate the risk of resource shortages resulting from unexpected increases in demand. Currently, the LTPP proceeding authorizes procurement to meet projected needs over a 10-year planning horizon, and the RA program provides for a 1-year forward procurement and need assessment. However, the current approach creates a procurement “gap” that is becoming increasingly problematic as existing resources face both limited options for securing revenues and new and costly regulatory obligations for which they have no reasonable means of cost recovery. Existing OTC resources face this problem today. Accordingly, consideration of a multiyear forward assessment and procurement is needed in the context of either the current LTPP proceeding or RA proceeding. In addition, procuring forward in anticipation of identified needs has two positive outcomes for consumers. First, it mitigates the probability that supply falls short of demand (plus a prudent resource margin), thereby ensuring that load is not curtailed unnecessarily. Second, purchasing forward minimizes the probability that higher costs solutions, e.g. CAISO backstop procurement, is triggered, thereby lowering overall costs for consumers.

XIII. LONG-TERM CONTRACT SOLICITATION RULES

IEP has no comments on this topic at this time.

XIV. CHANGES TO THE COMMISSION'S ADOPTED CAM PER SB 695, SB 790, D.11-05-005 AND ANY RELEVANT PREVIOUS DECISIONS (BEYOND ANY CHANGES CONSIDERED IN TRACK 1)

IEP has no specific comments on this topic at this time. As a more general matter, any needed procurement identified in the current LTPP proceeding or the RA proceeding should not be delayed as parties consider modifications to the CAM. Any needed procurement should be conducted under the current CAM; to the extent that the CAM is modified in the future, any changes should apply prospectively.

XV. GHG PROCUREMENT POLICIES NECESSARY TO FACILITATE THE IMPLEMENTATION OF THE CALIFORNIA AIR RESOURCES BOARD'S CAP-AND-TRADE PROGRAM.

See comments on Issue 3, above.

XVI. CONCLUSION

IEP respectfully urges the Commission to consider IEP's comments as it deliberates on the Track 3 procurement rules identified in the Scoping Memo and Ruling.

Respectfully submitted this 2nd day of November, 2012 at San Francisco, California.

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