

**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)

**OPENING COMMENTS OF THE MARIN ENERGY AUTHORITY  
ON PHASE 2 SCOPING MEMO AND RULING OF  
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

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In accordance with the instructions set forth in the *Phase 2 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (“Scoping Memo”) dated December 6, 2012, the Marin Energy Authority (“MEA”) submit these opening comments with regards to Attachments A & B to the Scoping Memo. In particular MEA’s comments are intended to provide a targeted response to the various questions presented in Attachment B: Questions on the Joint Parties’ Proposal in Attachment A may impact Community Choice Aggregation (“CCA”) and CCA customers.

MEA is the only operational CCA within California. MEA currently serves customers in Marin County, and is beginning to serve customers in the City of Richmond. MEA provides generation services to upwards of 90,000 customers and anticipates expanding to approximately 125,000 once Richmond is fully enrolled in 2013. Pursuant to state law, CCAs are solely responsible for all generation procurement activities on behalf of its customers, except where other generation procurement arrangements are expressly authorized by statute.<sup>1</sup> One such exception is the Cost Allocation Mechanism (“CAM”)<sup>2</sup> which enables the Investor Owned Utilities (“IOUs”) to recover the net capacity costs of generation resources procured to “meet a

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<sup>1</sup> California Public Utilities Code §366 (a)(5). All further section references herein are to the California Public Utilities Code unless stated otherwise.

<sup>2</sup> §365.1 (C)(2).

system or local reliability need” through a non -bypassable charge applicable to IOU, CCA, and Direct Access (“DA”) customers. Furthermore, CCAs are also obligated to procure capacity resources on behalf of their customers as well.

**I. MEA’s Response to Questions Presented in Attachment B**

- 1. What is/are the most critical grid reliability risk/risks that should be evaluated and managed through the flexible capacity procurement initiative?**

MEA has no comments in response to this question at this time.

- 2. This proposal attempts to address reliability risk by recommending that the CPUC establish a monthly interim flexible capacity obligation that is based on the ISO’s identified flexible capacity needs.**

*a. Identify the key tasks required to implement this proposal. Propose the order in which they should be addressed, and discuss whether they should be taken up simultaneously or sequentially.*

MEA recommends that any approval of the proposal be provisional, pending a final determination following completion of the CAISO needs determination studies and stakeholder processes. Following consideration of parties’ comments on the joint proposal, the Commission should adopt the conceptual framework for the flexible capacity program that would allow for additional progress to be made.

*b. Can the difference between load and net-load be met partially by introducing curtailment provisions in renewable contracts (particularly solar resources)? What are the implications of doing so?*

MEA has no comments in response to this question at this time.

*c. What are other options to alleviate the underlying reliability risk(s) (e.g. modified bidding behavior, incentives within procurement programs to procure resources that reduce identified reliability risks)? What are the benefits and drawbacks of addressing reliability risk by developing a flexible capacity obligation for LSEs relative to the alternatives?*

MEA has no comments in response to this question at this time.

***d. In addition to addressing reliability risk, does the flexible capacity obligation have other market impacts?***

MEA recommends that prior to adoption the proposal should be evaluated for any potential for exercise of market power by entities that own or control flexible generation facilities. MEA is not aware of any studies that have been released by the joint parties that identify the quantity of flexible capacity that is required, the amount of flexible capacity that exists, and the degree of market concentration through ownership or contractual control of such capacity. Creation of a flexible capacity requirement will create a submarket that may not be competitive. This issue should be studied to ensure that flexible capacity does not impose excess costs on ratepayers and that non-IOW load serving entities are not competitively disadvantaged due to the legacy resources in the IOU supply portfolios.

***e. How does this type of proposal, as compared to others, satisfy the Guiding Principles as set forth in the August workshop? (See Draft Guiding Principles in the Appendix to these questions)***

MEA has no comments in response to this question at this time.

**3. The proposed flexibility procurement initiative institutes an interim RA solution for 2014-2017. What are the anticipated impacts of an interim approach on resource adequacy contracts? What factors should the CPUC consider in deciding whether an interim approach is appropriate?**

MEA has no comments in response to this question at this time.

**4. Should the flexible capacity start in 2014? Explain why or why not.**

MEA does not believe that the flexible capacity requirement should start earlier than 2015. The joint parties' proposal indicates that 2015 is the first year where there is a meaningful need for flexible capacity. Further, the CAISO has indicated that some significant aspects of the program will not be completed until the end of 2013 (e.g., standard capacity product, backstop authority), making it impossible for all elements of the interim proposal to be implemented in

2014. The proposed timeline is unnecessarily rushed, provides no meaningful reliability benefits, and imposes unnecessary costs on load serving entities. MEA believes it is critical for the CAISO to complete and publish an analysis of the flexible capacity needs for 2014 and 2015 so that the impacts of the proposal can be evaluated. MEA also recommends that the CAISO stakeholder process be completed before a final decision is made to make the flexible capacity program effective.

### **Questions 5 through 7**

MEA has no comments in response to these questions at this time.

### **8. The proposal recommends the CPUC allocate flexible capacity procurement obligations to LSEs based on each LSE's relative share of monthly system peak.**

**Is this a suitable approach? Explain why or why not.**

MEA believes that basing the flexible capacity obligation to LSEs based on each LSE's relative share of monthly system peak appears to strike a reasonable balance between cost causation allocation principles and administrative efficiency.

***a. What other alternatives exist within CPUC jurisdiction that allows LSEs to demonstrate compliance of flexible capacity obligations? Please discuss the relative costs and benefits of different approaches. ( Section 3.3)***

MEA has no comments in response to this question at this time.

### **Questions 9 through 13**

MEA has no comments in response to this question at this time.

**14. Joint parties evaluated three options for counting how a resource’s flexible capacity quantity would satisfy a flexible capacity procurement obligation. The three options are: 1) Pro-rata Option: Pro-rata sharing of flexible and generic capacity; 2) Differentiated Capacity Option: Distinguish flexible capacity from generic capacity; and 3) Count-all Option: Count all capacity from “dispatchable” generators as flexible.**

*a. Which option do you think is better and why? (Section 5.3.2)*

MEA believes the “Count-all Option” would be best due to its inherent simplicity relative to the other approaches and its consistency with the guiding principle of minimizing disruption to the RA program. MEA is concerned that the Joint Parties’ recommended “Differentiated Capacity Option” will have adverse commercial impacts in that it creates the likelihood of disputes regarding interpretation of existing RA contracts relative to whether such capacity is for flexible capacity or for generic capacity. The Joint Parties have not adequately supported the rationale for abandoning their originally favored Count-all Option in favor of the Differentiated Capacity Option; i.e., the assertion that the Count-all Option is an infeasible interim solution due to the complexities of determining a “flexibility capacity margin”. The Count-all Option is the conceptually simpler approach in that a generating unit is identified in the master file as either flexible or not. The other options result in a more complicated parsing of a unit’s capacity between flexible and generic. It appears to MEA that calculating a flexibility capacity margin under the Count-all Option approach would be less complex than the need to renegotiate existing RA contracts in order to delineate which portion of the capacity sale is for flexible capacity and which is not.

*b. What would the impact(s) be on RA contracting for each approach?*

Please see answer to 14.a.

*c. What would be the impact of each approach on different types of resources, and particularly on preferred resources?*

MEA has no comments in response to this question at this time.

### Questions 9 through 13

MEA has no comments in response to this question at this time .

#### H. General

##### **18. What are the specific impacts of the flexible capacity procurement initiative on procurement and contracting on Community Choice Aggregators and Electric Service Providers?**

MEA believes that the flexible capacity procurement initiative will likely increase procurement costs due to the need to ensure that the requisite amount of RA capacity under contract qualifies as flexible capacity. Depending upon which flexible counting provision is used, there may be a significant impact on existing RA contracts in regards to whether the capacity purchased under the contract is flexible or generic. Adopting the Count-all Option would help mitigate this impact. For new RA contracts, MEA would anticipate that the flexible capacity would demand a higher price relative to generic capacity but that the contractual terms could address the new requirements.

The procurement and contracting impacts can best be managed if there is sufficient lead time prior to the requirements becoming effective to adjust future RA procurement and minimize disruption to existing contracts. The Commission can help by adopting a policy framework for the flexible capacity program and deferring the compliance requirement to 2015 or later, depending upon the anticipated need for flexible capacity.

The Commission should consider the potential competitive impacts of the flexible capacity requirement and allow for LSEs to request a compliance waiver if flexible capacity is not available on economic terms. The new flexible capacity market should be monitored carefully to ensure that prices are competitive and CCAs, ESPs, and other Non-IOU load serving entities are not disproportionately impacted by the new requirements.

## II. Conclusion

MEA thanks Assigned Commissioner Ferron and Assigned Administrative Law Judge Gamson for the opportunity to provide the above opening comments on the *Phase 2 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*.

Respectfully submitted,

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