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)

COMMENTS OF ENERNOC, INC., ON RESOURCE ADEQUACY AND FLEXIBLE CAPACITY PROCUREMENT JOINT PARTIES PROPOSAL

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EnerNOC, Inc. (EnerNOC) respectfully submits these Comments on the Resource Adequacy (RA) Flexible Capacity Procurement Joint Parties' Proposal ("Joint Parties Proposal"), included as Attachment A to the Phase 2 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (ALJ) ("Phase 2 Scoping Memo") issued in this RA rulemaking on December 6, 2012. These Comments are timely filed and served pursuant to the Commission's Rules of Practice and Procedure, the Phase 2 Scoping Memo, and the ALJ's Ruling sent to parties by electronic mail on December 19, 2012, extending the due date for these comments to December 26, 2012.

I. INTRODUCTION

EnerNOC has actively participated in this proceeding through workshops and submission of opening and reply comments in April 2012 on proposals made by the California Independent System Operator (CAISO) and the Energy Division to address flexible capacity needs with regard to local capacity requirements over the next several years. EnerNOC continued this participation by filing comments on the Proposed Decision in May 2012, which was issued by the Commission as Decision (D.) 12-06-025 on June 21, 2012. By that order, while the Commission concluded that there "are good reasons to define 'flexibility' for Resource Adequacy purposes and identify the types of flexible resources needed to maintain reliability,"

the Commission determined that record at that time was not sufficient to adopt either proposal.[1] Instead, the Commission committed to "study flexible capacity proposals further in this proceeding," with the intent "to issue a decision by or near the end of 2012 on this topic."[2]

To that end, the Energy Division held a workshop on August 13, 2012, for the purpose of "developing methodologies to define flexibility, determine flexibility needs, and determine generator capability to fulfill those needs."[3] EnerNOC also participated in that Workshop.

On October 29, 2012, as indicated in the Phase 2 Scoping Memo, the California Independent System Operator (CAISO), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&&E) "submitted a joint proposal" that "explores various topic areas including how to establish a flexibility requirement and the developing of counting rules for various resources to count towards flexible capacity procurement obligations."[4] In response to this Joint Parties Proposal, the Phase 2 Scoping Memo "poses" multiple questions in Attachment B of that ruling on which parties can file comments today.

EnerNOC appreciates the opportunity to respond to the questions posed in Attachment B and does so in Section III below. However, EnerNOC also has overarching concerns with the Joint Parties Proposal, described in the following section. Further, while the Joint Parties provided their proposal to the Commission on October 29, 2012, it was not distributed to the service list until the issuance of the Phase 2 Scoping Memo. Therefore, EnerNOC has only had two weeks to digest the proposal and submit these comments. As such, EnerNOC reserves the opportunity to modify or update its position as its understanding of the Proposal increases.

[1] D.12-06-025, at p. 2.
[2] Id.
[3] Phase 2 Scoping Memo, at p. 3.
[4] Id., at pp. 3-4.

II.
GENERAL COMMENTS AND CONCERNS ON THE JOINT PARTIES PROPOSAL

A. Overview

EnerNOC appreciates the efforts of the Joint Parties in crafting the Proposal to break down the complicated issue of flexible capacity resource requirements into digestible bites. The Joint Parties Proposal would establish a 3-hour ramping requirement during the hours of 5 AM until 10 PM and require the resource to offer its capacity into the energy markets (must offer obligation or MOO). The other aspects of CAISO's previous flexible capacity proposals, such as load following and regulation, are not addressed by this Proposal.

Instead, the Joint Parties Proposal is an interim methodology for 2014-2017. The Proposal would establish a monthly flexible capacity need, on a year-ahead basis, determined formulaically by the CAISO. The allocation of the flexible capacity need to load serving entities (LSEs), to establish a flexible capacity resource adequacy requirement, will be based upon the LSE's proportionate contribution toward peak demand. Then, the LSE will have the obligation to demonstrate that it has acquired 90% of the flexible capacity RA requirement on a year-ahead basis for the RA delivery year and that it has 100% of the flexible capacity RA requirement on a month-ahead basis.

Significant shifts in resource planning, from a peak-day planning process to a maximum ramping or load-following capability, require solid analysis and time to engender support and understanding. While this Proposal is a step forward from previous discussions in providing a plan that is understandable and potentially implementable, EnerNOC has some significant concerns with the Joint Parties Proposal that EnerNOC asks the Commission to address before any steps are taken to approve or adopt this Proposal.

B. Technology Neutrality

One of the guiding principles identified in the Phase 2 Scoping Memo (Attachment B, at page 6), as well as within the Joint Parties Proposal, is the idea of technology neutrality. In other words, the definition of, and the ability to provide, flexibility capacity resources will be the same for all technologies. While such a premise may initially appear to be elegant in its simplicity, upon implementation, there is a rigidity in the definition and applicability of "flexibility" that may actually impose barriers. Such a premise fails to acknowledge the operating characteristics of resources other than combustion turbines that could contribute toward relieving the need for flexible resources, but not on the same basis as a generator.

Unfortunately, EnerNOC's concern, which has been expressed throughout this conversation about flexible capacity resources, is that the resource definitions are based upon generation. If everyone can provide the same flexibility as a generator, then "come in, the water is fine." If not, then those resources cannot participate. Therefore, the use of the terminology "technology neutrality" may be somewhat Orwellian in this context in that it is not technology neutral. In fact, this principle may serve to create an inappropriate barrier to resources, other than combustion turbines, that can provide the flexible resource capabilities, but not on the same basis as a generator.

C. Must Offer Obligation, Resource Capabilities, and Market Mitigation

The flexible capacity requirement will be determined on a monthly basis and an obligation of a flexible capacity resource, according to the Joint Parties Proposal, is to offer the resource into the energy market every day and every hour from 5 AM until 10 PM. The requirement for a demand response resource to be available to be dispatched every day and for 17 hours per day will, if called, exhaust the DR resource and render it unavailable for when it is

really needed. It is hard for EnerNOC to imagine that the CAISO would not have a better idea of how much flexible capacity that it would reasonably need on any given day as opposed to requiring all eligible resources to bid to provide energy every day of a month for 17 hours per day.

Therefore, EnerNOC suggests that some kind of dispatch queue be established for ramping needs as it is for peak requirements. DR is not dispatched in advance of generation needs every day in the summer because DR is used as a peaking or emergency resource. It is not needed every day. It is needed when generation or transmission outages occur, when demand increases beyond expectations, or when prices escalate such that DR dispatches are economic. DR is not treated like a base-load resource for peak requirements purposes, and it should not be treated as such for ramping needs. The CAISO should be able to determine when its ramping needs will be approaching a point that exceeds the abilities of its available resource capabilities and, at that point, layer in DR resources when that participation will be most useful and valuable.

In addition, EnerNOC serves, exclusively, commercial, industrial and institutional customers. Some of these facilities may be 24-hour operations, but a large percentage would be available during normal business hours. Therefore, if the obligation upon the LSE is to provide the same capacity in all of the specified hours every day of a month, this requirement would be problematical for EnerNOC. EnerNOC's customer resources do not have the same capability to respond at 5 AM or 10 PM that they would have at 2 PM. Nor do they have the ability to be ready for dispatch every day of the month for 17 hours. Therefore, besides the fact that the obligation itself is unrealistic for DR resources, if this requirement were to stand, EnerNOC would need to be able to shape the hourly capacity availability to match the resource capability, which is load reduction.

Lastly, if an administrative way is not provided for EnerNOC to limit the dispatch of its customer resources to those periods when DR will really be needed, then EnerNOC would need to be free from bid mitigation in offering DR into the energy markets. This would be the only other way to prevent resource exhaustion, penalties, etc. for utilizing a resource in a manner in which it is not intended to perform. If bids will be mitigated and resource capabilities will not be differentiated, then this structure provides only downside to the participation of DR resources.

Unlike generators, the "operating costs" or opportunity costs of some DR resources are highly variable based upon the day of the week and the time of day. An offer price which is remunerative at one point in time, may, at another time, be grossly unprofitable to reduce load. For example, a manufacturer that is ahead of its production quota versus one that is behind and needs to get product finished immediately would influence the operating or opportunity costs for each of those manufacturers. Another example is a manufacturer whose process can easily be delayed, but once initiated, cannot easily be stopped. The price variation under those two scenarios would be very different.

DR resources need to have the flexibility to bid reductions that are reflective of the willingness and ability of the customer. If constrained or subject to regular investigation, the customer may simply choose not to participate and the flexibility it may have provided will be lost to the system.

The Joint Parties Proposal indicates that the must-offer obligation would be discussed as part of a CAISO stakeholder process. EnerNOC will participate in the CAISO stakeholder process to understand those requirements more fully than has been explained in the Proposal and may have further comments at that time.

D. Market Signals

In addition to determining the amount of flexible capacity that will be needed and the obligation of those resources, it is important to understand how flexible capacity resources will be valued. The Joint Parties Proposal indicates that flexible capacity resources should be valued higher than traditional peaking capacity resources. However, it is not clear how that "higher value" will be established.

Currently, resource adequacy value for "peaking" capacity is only around $24/kW-Year. California does not have a transparent market for determining the value of capacity resources. Frankly, the current resource adequacy capacity value is not enough to encourage demand response participation as a peaking resource. Flexible resources would have obligations that are much more onerous. So, it will be important for the value for flexible resources to be determined in a fair, open and transparent manner.

California energy prices are relatively flat with a few, brief periods of price spikes. There is little price variability among sub-LAPs, generally. Energy rents, received by providers of flexible capacity bidding into the energy markets, or energy market price signals does not currently seem to provide an "incentive" to provide flexible capacity. And, if it did, it is not clear that bidders will be able to capture the price spikes. EnerNOC is concerned that the combination of flat, low energy market revenues and bilateral capacity payments may not be adequate to compensate providers of flexible capacity resources for the operational flexibility that the CAISO is requiring. California's hybrid market design has resulted in most generation development through long-term contracts with utilities, not through market signals for energy and capacity. As such, EnerNOC wonders how revenue adequacy for this new resource product will be ensured.

Also, DR resources do not have the same opportunities for participating in the wholesale market that other generation resources have. DR resources cannot provide spinning reserves or regulation due to Western Electric Coordinating Council definitions, despite the fact that DR can participate in providing these services in other NERC regions. In previous CAISO proposals for defining flexible capacity resources, load following and regulation were products that CAISO would like resources to provide. If the current 3-hour ramping definition is expanded in the future to include other resource capabilities, such as spinning reserves or regulation, barriers to DR participation must be addressed.

There is always more than one way to address a problem. For the problem of renewable intermittency, the way proposed by the Joint Parties Proposal, is to establish a regulatory requirement on LSEs. Another way is to send the signals for what is needed, when it is needed and where it is needed through CAISO's markets for energy and ancillary services. If CAISO needs ancillary services or energy at certain times of the day, allow the market to signal that these resources are needed and allow providers to respond. The goal should be to utilize the market to encourage the participation that is sought.

However, that discussion is not occurring. Without discussing how such a requirement will affect the markets, other questions arise. How will the requirement for all flexible resources to bid into the energy market affect the clearing price for energy? Ancillary services? If the market is flooded with bids beyond what is necessary to serve load, won't those prices be depressed? Perhaps the most significant, unanswered question posed by the Joint Parties Proposal is: How will the requirements associated with flexible capacity affect CAISO's markets?

California still has not really "cracked the code" yet for DR participation in the wholesale market for energy and ancillary services. Yet, it appears that the State is asking participation by DR in the wholesale market to be the equivalent of a full-sprint without the experience of having learned to crawl as a basic energy, ancillary service or capacity resource. In short, most DR providers in CA have *no* experience with participating in the CAISO's markets and yet the first opportunity to do so may be as a more "complex" resource than historically required. These circumstances make it imperative for the Commission to address the many unanswered questions noted herein before adopting the Joint Parties Proposal.

III.
ENERNOC RESPONSES TO QUESTIONS (ATTACHMENT B)

EnerNOC provides responses to the questions posed in Attachment B of the Phase 2 Scoping Memo below. For any question that is not addressed herein, EnerNOC reserves the right to provide further comment or input in future filings or Workshops on the Joint Parties Proposal or these issues.

A. Reliability Risk

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

The CAISO's analysis indicates that significant shifts in resource utilization will need to occur to balance the intermittent availability of renewable resources with demand. However, in response, the Joint Parties' answer appears to be that, for every day in a month, all qualified flexible resources have to bid into the energy market between 5 AM and 10 PM every day to cover the maximum 3 hour ramping requirement for the month plus the higher of the maximum single severe contingency (MSSC) or 3.5% of the monthly peak load. Without knowing what the magnitude of either the MSSC or 3.5% of the peak load is, the concern would be that there

will always be excess capacity available in all required bid hours and that will suppress values for energy.

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.*

The first task is to determine the need. That will require understanding CAISO's method of calculating the 3-hour ramping requirement. In addition, the Commission and parties should explore whether it is necessary to supplement the 3-hour ramping need with the contingency need or do we allow the contingency need, if it is greater than the 3-hour ramping need, to supplant the ramping need. It is not clear why there should be a cumulative need of both the ramping and the contingency requirements.

Second, there needs to be a discussion of how best to encourage the resources to be available when needed, either through regulatory requirements or through market signals. A determination should be made if the maximum ramp is needed in all hours or if there is a distribution of need within the month. Is the maximum ramping need necessary in all hours between 5 AM and 10 PM or can the need be more specific?

A discussion as to whether the principle of technology neutrality is, in fact, neutral, or is it possible for different resources to contribute toward meeting a flexible capacity requirement without having the same obligation as a generator. Simultaneous analysis may be difficult for parties with limited resources.

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?*

The net-load definition looks at solar and wind. However, it is legitimate to question the effect on net load if other resources are included, like DR, for example. It is legitimate to ask how *all* resources can be managed so as to mitigate the need for flexible resources to compensate for intermittency.

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?*

The biggest concern and uncertainty is the effect on wholesale market pricing. It is not known how these resources will be valued, from a capacity perspective, and if the bid requirement will suppress market signals for energy and ancillary services. This seems to move California even further away from market mechanisms and more deeply toward regulatory and administrative constructs. It is questionable whether the current administrative resource adequacy construct is supporting existing or new generation development in California or demand response participation and if further entrenchment into this model will support other resource delivery needs.

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

Yes. If all flexible capacity is required to offer into the energy and, possibly in the future, the ancillary services markets, then it begs the question as to the affect that bid behavior will have an energy and ancillary market price signals. If all resources bid to provide energy and ancillary services, and that results in low energy and ancillary clearing prices, how will low market prices support flexible resource development?

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)*

The principles can be satisfied by a market mechanism.

B. Interim RA solution (Joint Parties Proposal Section 2)

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?*

For LSEs that have procured, own or operate resources over a longer term for purposes of meeting a peaking RA requirement, this policy may reduce the value of those longer term arrangements if those resources are not useful for a flexible capacity requirement. It is not clear how the flexible capacity requirement will modify, if at all, the peak capacity requirement.

However, EnerNOC supports an interim approach for the reasons described earlier. This is a digestible proposal as it only addresses an interim ramping need. An interim approach will also allow parties to develop some experience with this proposal and allow future modifications as a result.

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

It is not clear to EnerNOC that the need is acute in 2014 so that the flexible capacity mechanism *must* start in that year. Frankly, it is a rather large hurdle to have a meaningful regulatory process that would result in a decision in a timely enough manner for parties to procure those resources by late 2013 in order to demonstrate compliance for 2014.

C. Development of Eligibility and Needs Methodology (Joint Parties Proposal Section 3.1 And Section 3.2)

5. *According to the proposal, "flexible capacity need" is defined as the need of the ISO to meet ramping and contingency reserves. (Section 3.1)*

a. *Is this an appropriate definition of flexibility? If not, please explain what might be an appropriate definition and why.*

It is not clear to EnerNOC from the Joint Parties Proposal that the flexible capacity need must be defined as the flexible ramp plus contingency reserves or the greater of the two. Even if that is the definition, the question arises as to whether that capacity has to be bid into the energy market for all of the hours defined by CAISO.

b. *Should flexible capacity needs encompass all of the contingency reserves (E.G. Spin, Non-spin, Regulation up/down)?*

This is another concern for EnerNOC. Why is it necessary to define flexible capacity requirement if what is needed is energy and ancillary service delivery at certain times. Why cannot market signals for the need for those services be adequate for resources to be available where and when the CAISO needs them? If the State is building toward a requirement to ensure that there is over-supply in most hours, then all of the market signals will crater, and ratepayers will be asked to support that excess capacity.

6. *Flexibility needs are calculated according to the following [provided] formula (Section 3.2)-), et al. (subparts a. through e.).*

EnerNOC reserves the right to respond or provide further input, as permitted, after reviewing the Joint Parties responses to the comments submitted today.

7. *What process(es) or proceeding should be used to calculate capacity flexibility needs as load and supply change over time?*

a. *Currently the annual LCR process results in a determination of local capacity needs on an annual basis. Should flexible capacity needs be included within the LCR process, or should a separate but similar process be established to update flexible capacity needs? Please explain.*

EnerNOC is supportive of using the existing annual RA proceeding for this purpose as opposed to initiating a new, annual proceeding.

b. *Who should determine flexibility needs annually– the ISO or some other third party?*

Once a methodology is adopted, EnerNOC believes that it may be appropriate for CAISO to do the calculation and share it with the service list.

D. Allocation of Flexible Capacity Requirements (Section 3.3 and Section 3.4)

EnerNOC reserves the right to respond on questions posed in this section in response to other Parties comments and the Joint Parties responses to comments filed today.

E. Flexible Capacity Must-offer Obligations (Section 4)

9. *In addition to the must-offer obligations that currently apply to RA resources, the flexible capacity must-offer obligation for flexible resources would require resources to submit economic bids into the ISO's real-market between a predetermined set of hours (i.e. 5AM to 10PM).*

d. *Can this risk be alleviated partially by incentivizing resources with Must- Offer Obligations to submit economic bids in the ISO market instead of self-scheduling? What changes could be contemplated within regulatory proceedings at the ISO and the CPUC, to make it conducive for resources to submit economic bids instead of self-scheduling their energy?*

EnerNOC reserves the opportunity to respond to E.9.d. based upon the comments of other parties and the Joint Parties responses to comments filed today. However, EnerNOC has expressed its concerns with the must-offer obligation above in Section II and incorporates that position again here in response to this question.

F. Eligibility (Section 5.1)

10. *According to the proposal, a resource must be able to ramp and sustain energy output for a minimum of three hours to qualify as flexible. Is this a suitable condition to determine eligibility for flexible resource? (Section 5.1) Please explain why or why not.*

It is not clear how this definition actually translates into the must offer obligation of the resource, which requires the resource to bid into the energy markets from 5 AM until 10 PM.

11. - 13.

EnerNOC reserves the right to respond on these questions in response to other Parties comments and the Joint Parties responses to comments filed today.

G. Flexible Counting Conventions (Section 5.3.2)

14. *Joint parties evaluated three options for counting how a resource's flexible capacity quantity would satisfy a flexible capacity procurement obligation.*

a. – c.

EnerNOC reserves the right to respond on these questions in response to other Parties comments and the Joint Parties responses to comments filed today.

15. *Please comment on the proposed counting conventions for –*

a. – e.

EnerNOC reserves the right to respond on these questions in response to other Parties comments and the Joint Parties responses to comments filed today.

f. *Any other resources for which counting conventions should be developed.*

It is EnerNOC's position that "other resources" should include preferred resources. However, the Joint Parties Proposal does not address preferred resources and, in fact, defers the issue to some future period. DR contracts expire, if approved, by December 2014. New contracts, if permitted, will probably include some form of flexible dispatch requirement. If a DR resource cannot provide flexible capacity, then DR capacity will be "valued" lower than other generation. This result would occur despite the numerous studies that have shown that DR can be a very cost-effective resource for integrating renewable resources. The unknown aspect as to how and when flexible capacity requirements will affect future DR contracting introduces great deal of uncertainty as to future contracting requirements.

16. *In order to increase transparency over RA capacity procurement, what data could be made public within confidentiality restrictions?*

a. - c.

EnerNOC reserves the right to respond on these questions in response to other Parties comments and the Joint Parties responses to comments filed today.

17. *Should there be different qualitative and quantitative metrics of flexibility for demand response and storage resources?*

a. *Is so, what characteristics or criteria could be used to quantify flexibility for storage devices and demand response?*

DR can be part of the solution, but not for the number of hours defined in the Joint Parties Proposal. As mentioned above in the introductory comments, and as currently utilized, DR should be a resource that blunts the peak ramping requirement, as it blunts the peak capacity resource needs; it should not be used as a base-load resource. If CAISO can define the peak ramping requirement but provide some day-ahead notification as to when a peak ramp will occur, DR can submit a bid to be available at that time. Similarly, if ancillary services are needed, and the CAISO has the fore knowledge, then DR can submit bids for that purpose. If it is a true emergency, then it will be necessary to define the availability and dispatch requirements for emergency "flexible capacity" response.

b. *What demand response programs or types are most suitable for flexible resource eligibility?*

It is possible for DR to be responsive to economic signals in the wholesale market for energy and ancillary services. There are challenges to this in WECC and due to some CAISO tariff requirements; but, those issues can be addressed and remedied to give DR the same ability to participate as other resources. As of today, DR still has not been successfully integrated into the wholesale market.

As mentioned previously, if all resources are bidding to provide those services due to a must-offer obligation, the "value" of another resource providing energy or ancillary services is likely to be low unless there is an emergency. There is also the question of having a capacity

reservation charge for DR, that we have not fully addressed in the RA Proceedings. If the revenue available in the wholesale market is insufficient to attract customer interest in participating, then DR participation in CAISO will be low, if there is any participation at all.

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?*

EnerNOC reserves the right to respond on these questions in response to other Parties comments and the Joint Parties responses to comments filed today.

IV.
CONCLUSION

The Joint Parties Proposal is beneficial in simplifying a very complex issue for an interim period. However, the Proposal raises a number of unanswered questions and concerns, as detailed in Section II herein and EnerNOC's responses to the Attachment B questions in Section III.

In short, the terminology of "technology neutrality" may be discriminatory if the expectation is for all resources types to be able to provide the exact same level of flexibility as a combustion turbine. There is a deferral of addressing preferred resources that will cause uncertainty in the future contracting requirements for DR. It is unclear how the resource requirements will affect market clearing prices. A must-offer obligation coupled with market mitigation measures may discourage DR participation. Shaping the need for ramping resources

should be no different than shaping the need for peaking resources. The current bid requirements would not be sustainable for DR.

Respectfully submitted,

December 26, 2012

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