

**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)

**POST-WORKSHOP COMMENTS OF THE UTILITY REFORM NETWORK
ON FLEXIBLE CAPACITY PROPOSALS**

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I. INTRODUCTION AND SUMMARY

Pursuant to the March 11, 2013 *Administrative Law Judge's Ruling Resetting Schedule for Comments on Phase 2 Resource Adequacy Issues and Setting a Prehearing Conference* (ALJ Ruling) and the additional instruction provided by the Administrative Law Judge (ALJ) at the March 20, 2013 Prehearing Conference (PHC) and the January 23, 2013 workshop, TURN offers the following comments on proposals discussed at that workshop to add a “flexible capacity” procurement requirement to the Commission’s Resource Adequacy (RA) program.¹

In brief, TURN agrees that the CAISO, with the help and cooperation of other entities, will face new and unique challenges to operating reliably the portion of the electric system in California that it manages in the coming years, largely due to the inclusion of growing amounts of non-traditional resources into the grid. Among other adaptations, meeting these challenges will almost certainly require the CAISO to exercise the electric system’s “ramping” capabilities in a much different manner than it has before. The Commission is right to look to adapt its policies as necessary to help the CAISO and other parties meet these challenges in general and the ramping challenge in particular.

However, despite the Commission’s statements in D.12-06-025² and the efforts of the Joint Parties,³ Energy Division (ED), and many others over the past year, TURN does not believe that the Commission should adopt either the Joint Parties’ or ED’s flexible capacity proposal in

¹ TURN is not addressing other Phase 2 issues at this time, but reserves the right to do so in its reply comments.

² See pp. 21-22. TURN supported this position (p. 20).

³ The Joint Parties, who include the CAISO, Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E), sponsored one of the flexible capacity proposals being considered in this phase of this proceeding.

June 2013 to be effective for the RA compliance year of 2014.⁴ TURN has two principal concerns, which will be addressed more fully below:

- A record-development process that has allowed long delays in the production and presentation of key supporting data and thus has left the record before the Commission regarding key aspects of the Joint Parties' and ED's Proposals inadequate and muddled.
- No need has been shown that requires implementation of a flexible capacity forward procurement requirement for the RA compliance year of 2014.

As a result, TURN believes the Commission should not adopt either the JP or ED proposal at this time. The Commission should instead begin an effort to address these issues through a more rigorous record-development process with fixed timelines for presenting proposals and supporting evidence, such as requested in the Sierra Club/TURN amended motion for evidentiary hearings.⁵ The Commission should pursue such efforts with the possibility of adopting such a proposal by June 2014, if the necessary showing is made, so that it could be effective for the RA compliance year of 2015.⁶

As an alternative, if the Commission wishes to take some further action at this time, TURN suggests the Commission adopt a "Report Only" requirement for 2014 described further below. Briefly, under this proposal, load-serving entities (LSEs) would begin to report their

⁴ In these comments, TURN will use this phrase to identify (a) when the Commission would need to adopt a forward flexibility procurement requirement for its RA program and (b) the compliance year in which that requirement would be in effect. A policy that takes effect for the compliance year of 2014 requires LSEs to start making compliance filings starting in October of the prior year (October 2013 for compliance year 2014) and thus start making commercial arrangements with RA suppliers prior to that date.

⁵ *Amended Request for Evidentiary Hearings of Sierra Club and The Utility Reform Network*, March 28, 2013.

⁶ It is also possible the Commission could adopt such a requirement by late 2013 or early 2014 so that implementation could begin occurring in the fall of 2014 if the Commission finds that flexibility needs during the winter season of 2014-2015 make it advisable. For example, a requirement taking effect in October 2014 would require LSEs to make compliance filings in July or August and commercial arrangements before then, suggesting that a decision date by early 2014 would be necessary.

procurement of flexible capacity in their annual and monthly RA filings with ED. This proposal would be another step toward gathering data to analyze this issue further and possibly be an initial step toward implementation of a forward flexible capacity procurement program. But if the Commission adopts this proposal, it should still pursue the record-development process described above to consider and possibly adopt by June 2014 a flexibility procurement requirement for the RA compliance year of 2015.

For the sake of clarity, in response to the specific questions the ALJ posed at the January 23rd workshop and March 20th PHC, TURN does not believe either the Joint Parties' or ED's proposal needs to be adopted in whole or in part at this time.⁷ Such action is clearly within this Commission's regulatory purview, as would be the adoption of the alternative "Report Only" requirement outlined below. In Appendix A, TURN offers specific Findings of Fact, Conclusions of Law and Ordering Paragraphs in support of its recommendations.

II. THE COMMISSION HAS AN INADEQUATE RECORD TO ADOPT A FLEXIBLE CAPACITY PROCUREMENT REQUIREMENT

In recent years, many changes to the RA program have been implemented using the simple workshop process that the Commission apparently expected to use to implement a flexible capacity proposal. However, whether or not such a process *could have been* used to vet either proposal for adoption by June 2013 to be effective for the 2014 RA compliance year, the process to date has not provided a reasonable review of key issues – in large part because of delays in the presentation of the key details of – and supporting data for -- the Joint Parties' proposal. Some of these key outstanding issues will be addressed below.

The key milestones of the combined CPUC and CAISO processes to date are as follows:

⁷ With the minor exception of the flexible capacity definitions cited in the description of the "Report Only" option below.

Date	Event
August 13, 2012	First CPUC workshop on flexible capacity following D.12-06-025
November 15	Joint Parties' Proposal provided to service list via email ⁸
December 6	Joint Parties' Proposal formally provided to service list in Scoping Ruling
December 20	CAISO Stakeholder Meeting on FRAC-MOO ⁹
January 15, 2013	Energy Division Flexible Capacity Procurement Proposal released
January 23	Second CPUC workshop ¹⁰
January 30	CAISO Stakeholder Meeting on FRAC-MOO (set for February 14) postponed
February 7	Original comment deadlines suspended (February 13 and 27)
March 11	ED Flexible Capacity Procurement Revised Proposal released with ALJ Ruling
March 15	CAISO released additional analysis of need
March 20	Third CPUC Workshop
March 22	CAISO updated analysis of need in response to Sierra Club concerns
March 27	CAISO Stakeholder Meeting on FRAC-MOO (set for April 3) postponed
April 1	CAISO provided draft estimates of resources' Effective Flexible Capacity

This timeline reflects a process under which key information regarding the Joint Parties' proposal has been delayed and subject to frequent revision. As a result of this start-and-stop process, the Commission only recently received the CAISO's second analysis of need and the ED's revised proposal.¹¹ These revisions and delays have stymied the discussion of key issues, some of which had been pending for months. (Some of these issues are discussed below.) Should the Commission wish to implement a forward procurement requirement in June 2013, – to allow LSEs to comply with a new requirement for the 2014 compliance year – the CPUC now

⁸ The cover of the Joint Parties' Proposal was dated October 29, 2012.

⁹ FRAC-MOO is the acronym for Flexible Resource Adequacy Criteria and Must-Offer Obligation, a proposed revision to the CAISO's tariff that would enable the CAISO to enforce certain obligations on entities that sell flexible capacity.

¹⁰ The CAISO did not provide its analysis of need for the Joint Parties' Proposal until the morning of January 23, 2013.

¹¹ TURN understands that some of these delays were due to parties trying to "do the right thing", such as the ED's revisions to its proposal and the CAISO's recent update of need figures based on its discussions with the Sierra Club. But despite such good intentions, the Commission still has an incomplete and muddled record on key issues.

has little time and an inadequate record to consider these issues in a thorough manner.

The Commission should thus be wary of implementing either of the flexible capacity procurement proposals in June 2013 to take effect for the compliance year of 2014. Such a requirement could be a major change to the LSEs' procurement environment and thus poses significant cost risks to LSEs and their customers.¹² It is important for the Commission to “get it right”, or as right as possible, before implementing such a requirement.

III. THE JOINT PARTIES HAVE FAILED TO DEMONSTRATE THE NEED FOR A FLEXIBLE CAPACITY REQUIREMENT FOR THE 2014 COMPLIANCE YEAR

TURN understands that the Joint Parties spent two to three months developing their specific proposal to focus on acquiring resources needed to meet a “three-hour ramp”. But the Joint Parties – led by the CAISO – did not provide any documentation regarding the need for their specific proposal until the morning of the January 23rd workshop.^{13,14} And that analysis showed that there was no need for the Commission to implement the Joint Parties' Proposal to be effective for the 2014 RA compliance year, as the Joint Parties requested. Rather, the CAISO's showing suggests that there will be a large surplus of flexible capacity during the 2014 RA compliance year. Specifically, the quantities of flexible capacity projected to be available in 2014 (shown as “Flexible Capacity” in the chart on slide 13 of the CAISO's January 23rd presentation) greatly exceeds the amounts of potential “need” shown in the following two lines

¹² Given that the IOUs have procured substantial quantities of capacity, including flexible capacity, several years in advance, TURN believes this concern is a greater risk to the other LSEs, that is, the Energy Service Providers and the Community Choice Aggregators.

¹³ Though this section refers to the Joint Parties collectively, the analysis was apparently prepared entirely by the CAISO.

¹⁴ Based on its email records, TURN believes the Energy Division first delivered the CAISO's presentation to the service list, via email, at approximately 10 a.m. the morning of the workshop. The ALJ later added this specific presentation – titled *Methodology for Determining Flexible Capacity Procurement Requirements* – to the record. See RT 42:2-9 from the January 23rd workshop.

of the presentation (shown as “3-Hr + 3.5%_Pk” and “2014 Old Profile”).¹⁵

The CAISO’s updated analysis, first provided on March 15, 2013 for the March 20, 2013 workshop, was little more persuasive. This analysis, summarized on slide 19 of the CAISO’s presentation,¹⁶ showed that there are substantial amounts of flexible capacity now available in the CAISO system, shown by the left-most bars in each of the four groups on the chart, which are labeled “EFC Dispatchable”.¹⁷ Further, substantial quantities of such flexible capacity, shown in the middle bar in each group, and labeled “EFC Dispatchable RA”, were under RA contract in 2012, suggesting that similar quantities are under RA contract this year and will be again next year. The notion that there is a need for RA contracts for flexible capacity in the 2014 RA compliance year is purportedly supported by the right-most bars in each group, which are labeled “Limited Long-Start Resource Case”. These bars are approximately equal to the estimated needs in March and December in 2014, 2015 and 2016, which are shown by the three lines on the chart.

But as shown on slides 27 and 28, this “Limited” case envisions that the sum of EFC Dispatchable RA would be reduced by 6,500 MW, plus an additional eight percent forced outage rate times the remaining capacity. These assumptions appear highly questionable and arbitrary for a variety of reasons, including:

- It is not too optimistic to expect dispatchable EFC that does not have an RA contract to be available to provide flexibility to the system as needed. Relaxing this assumption alone would add over 10,000 MW of EFC to the CAISO’s assessment of EFC available to meet flexibility needs in March.

¹⁵ TURN is citing these data at this point, though not endorsing them.

¹⁶ TURN assumes the CAISO will introduce this presentation into the record with its comments to be filed today.

¹⁷ TURN understands the acronym EFC to stand for Effective Flexible Capacity.

- The Once-Through Cooling (OTC) retirement in 2015 has no impact on EFC availability in 2014.
- An eight percent forced outage rate may be unduly high, especially for hydroelectric resources.
- In the most constrained month of March, only 424 MW of pumped storage capacity is assumed available, even though PG&E’s Helms plant alone provides more than 1,200 MW of such capacity.
- The analysis appears to ignore the capacity of generators that will come on-line in 2014 that will provide over 3,000 MW of gross capacity, including the Marsh Landing, Russell City and Los Esteros Expansion projects under contract to PG&E, and the Sentinel, Walnut Creek and El Segundo Repower projects under contract to SCE.
- The analysis also appears to ignore imports, which will likely be available to follow ramps during the winter and spring periods of concern, particularly since the steep net load ramps caused by declining solar generation will be somewhat predictable a day in advance.

In preparing their proposal first and their supporting analyses afterwards, the CAISO and Joint Parties “put the cart before the horse”; that is, they reversed the logical order of things by developing a solution to a particular problem before determining whether that particular problem really exists. Based on the data thus far presented in this case, the Commission has no basis to find that there is a need to implement a flexible capacity requirement in June 2013 to be effective for the 2014 RA compliance year. The CAISO’s January 23rd and March 15th data suggest instead that the Joint Parties spent several months developing a solution for a problem that does not need solving in the immediate future.

IV. THE IOUS’ PRIOR FORWARD PROCUREMENT OF FLEXIBLE CAPACITY IS ADEQUATE TO MEET RELIABILITY NEEDS

Based on its analysis, TURN does not believe that any year-ahead forward flexibility procurement requirement would have a substantial impact on the amount of flexible capacity that

will actually be procured for the 2014 RA compliance year or, perhaps more importantly, the amount of flexible capacity that is made available to the CAISO in and near real-time during 2014. TURN also doubts that such a requirement would have significant impacts in the immediately following years either. Data TURN obtained through discovery shows that the major players in CPUC-jurisdictional markets – the Investor-Owned Utilities (IOUs) – have procured substantial quantities of flexible capacity for several years ahead.¹⁸ In fact, the amount of flexible capacity the IOUs have already procured substantially exceeds the “need” shown in the CAISO’s slides through 2016.^{19,20}

V. KEY ISSUES RELATED TO THE DEFINITION OF NEED HAVE NOT BEEN ADEQUATELY ADDRESSED

Issues related to the definition of need have been raised in various fora and should be addressed before Commission implementation of any forward procurement requirement for flexible capacity. But none of these were reviewed to any significant degree at either the January 23rd or March 20th workshops. Among these matters are those TURN raised in its December 26, 2012 comments in this docket.²¹

¹⁸ TURN reached this conclusion based on its review of the IOUs’ confidential responses to TURN data requests regarding each IOU’s forward capacity procurement through 2018 and the data the CAISO provided on units’ EFC on April 1. Based on TURN’s review of its executed Non-Disclosure Agreements (NDA) with each IOU, TURN can provide these data to ED and the Division of Ratepayer Advocates and other non-market participating parties that execute NDAs with each IOU.

¹⁹ TURN again reached this conclusion based on its review of the IOUs’ confidential procurement data and the CAISO’s EFC data.

²⁰ TURN recognizes that IOU ownership or control of a resource does not necessarily mean the IOU will show a resource in its RA filings and thus make it available to the CAISO under the rules of the RA program. However, TURN doubts any IOU-owned or –controlled resource will not be made available to the CAISO if truly needed unless it is on a legitimate outage. TURN also recognizes that relying on IOUs to own or contract for such resources is not consistent with many parties’ preferred market structures. In making the above observations, TURN is not taking a position on such market structure issues; TURN is instead highlighting the fact that substantial amounts of flexible capacity have already been procured in a fashion that should allow the CAISO to access their services readily.

²¹ *Comments of The Utility Reform Network on Joint Parties’ Proposal Regarding Resource Adequacy and Flexible Capacity Procurement (Phase 2)*, submitted December 26, 2012 in R.11-10-023. Per the ALJ’s direction at

The most concerning of these issues is the possibility that specific aspects of the Joint Parties' proposed formula may cause need to be mis-estimated, including:

- Potential double-counting of reserves required to provide adequate flexible capacity. (p. 6)
- Inadequate consideration of the ability of imports to meet flexibility needs. (p. 6)
- The vaguely defined "error term". (p. 8)

In addition, TURN is concerned that the Joint Parties' Proposal will undercount the ability of hydroelectric capacity to meet flexibility needs.²² However, TURN believes this concern may be best addressed by the revised proposal PG&E presented at the March 20th workshop.²³

IV. ALTERNATIVELY, THE COMMISSION COULD ADOPT A "REPORT ONLY" REQUIREMENT FOR THE 2014 COMPLIANCE YEAR

As discussed above, the most important step the Commission could take in its June 2013 decision would be to order a robust record-development process with fixed deadlines for producing proposals and supporting information, along the lines of the TURN-Sierra Club requests for evidentiary hearings. However, if the Commission wishes in its June 2013 decision to take a further step toward adoption of a forward procurement requirement for flexible capacity, the Commission could order the implementation of a "Report Only" flexibility requirement. Under this proposal, the Energy Division would adapt its current spreadsheet templates that LSEs use to make their RA filings to include additional information regarding the flexibility characteristics of each of the resources LSEs submit. TURN suggests that, for

the March 20th workshop, TURN is not reiterating these concerns in detail in these comments.

²² *Id.*, 9-10.

²³ TURN assumes PG&E will submit its latest proposal with its comments to be filed today.

purposes of this Report Only requirement, such flexibility be defined using the “Differentiated Capacity” approach developed by the Joint Parties and now endorsed by Energy Division and by PG&E’s most recent approach to defining the flexible capacity of hydroelectric resources. Flexibility values of zero would be reported for resources for which no definition of flexibility has been adopted; however, such a report should not be interpreted to suggest that all such resources do not have or will not someday offer flexibility. More generally, any definitions of flexible capacity or other program elements that are used to implement the Report Only requirement should be subject to review and change based on the more robust record-development process for the June 2014 decision that TURN (and Sierra Club) have proposed. This proposal would be entirely within the Commission’s jurisdiction and could be implemented readily by ED staff.

TURN does not believe this alternative proposal offers appreciably less reliability than either the Joint Parties’ or ED proposal for three reasons. First, it is doubtful there is a need in 2014, as discussed above. Second, as also noted above, the IOUs have already engaged in a substantial amount of forward procurement of flexible capacity for 2014 and following years, so that the incremental impact of an added forward procurement requirement will be limited in the near- to mid-term. Finally, as the CAISO will not be able to implement a revised Must-Offer Obligation (MOO) until the 2015 RA compliance year, there will be limited enforcement in CAISO markets of generators’ flexibility obligations in 2014. Thus, even if a flexible capacity requirement were implemented for the 2014 compliance year, it would be unlikely to have a big impact on the amount of flexible capacity that will be procured or available for 2014.

V. CONCLUSION

The record developed to date does not support the need for a flexible capacity RA

requirement for 2014. The Commission should order a robust record-development process with fixed deadlines to present and fully support complete flexible capacity proposals, thereby enabling a fully informed decision regarding flexible capacity issues in June 2014. If the Commission wishes to take a further step in its June 2013 decision, it could adopt the Report Only requirement discussed above for the 2014 RA compliance year.

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Respectfully submitted,

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Appendix A

Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs

TURN offers the following recommended Findings of Fact, Conclusions of Law and Ordering Paragraphs. Please note that proposed Conclusion of Law 2 and Ordering Paragraph 1 are relevant only if the Commission wishes to implement TURN's proposed "Report Only" program. The other items below are relevant if the Commission adopts either of TURN's recommendations.

TURN's Principal Recommendation:

Findings of Fact:

1. The record has not established a need to implement a flexible capacity procurement program for the 2014 Resource Adequacy (RA) compliance year.
2. Proposals by the Joint Parties and Energy Division to address flexible capacity needs, while helpful, require further consideration and detail before they can be adopted.

Conclusions of Law:

1. It is necessary to develop a more complete record regarding issues related to flexible capacity before implementing a flexible capacity RA program.

TURN's Alternative Recommendation also includes:

Conclusions of Law:

2. It is reasonable to implement a Report Only addition to the RA program at this time to require Load-Serving Entities (LSEs) to identify specifically those portions of their RA capacity that can meet flexibility requirements as defined herein.

Ordering Paragraphs:

1. The RA program will be modified to require LSEs to report on their procurement of flexible capacity on the same year-ahead and month-ahead schedule they do under current RA program rules.