**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)

RESPONSE OF THE MARIN ENERGY AUTHORITY TO MOTION OF SIERRA CLUB AND THE UTILITY REFORM NETWORK REQUESTING EVIDENTIARY HEARINGS

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I. Introduction

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Marin Energy Authority ("MEA") submit this response to the *Request for Evidentiary Hearings of Sierra Club and The Utility Reform Network ("TURN")* ("Motion") on March 7, 2013, and *Amended Request for Evidentiary Hearings of Sierra Club and TURN* ("Amended Motion") on March 28, 2013. Pursuant to Rule 11.1(e) parties must respond to other parties' motions within 15 days; hence this response is timely filed and served as of April 12, 2013. For the reasons described in this response, MEA supports the Amended Motion's request for evidentiary hearings.

II. Areas of Factual Dispute

MEA agrees with Sierra Club and TURN that "evidentiary hearings are required to provide a complete record and resolve remaining factual disputes prior to Commission consideration of a proposed flexible capacity procurement regime." (Amended Motion at 1.) The California Independent Systems Operator ("CAISO ")[1], one of primary proponents of a

[1] The initial Flexible Capacity Proposal was jointed presented by Southern California Edison ("SCE"), San Diego Gas & Electric ("SDG&E"), and CAISO on October 29, 2012. The proponents would impose the FCR on top of the

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Flexible Capacity Requirement ("FCR"), has repeatedly revised the calculations and assumptions underlying the facts presented to justify the need for FCR and expedited consideration. Because the primary justification presented for such a material change to the existing RA program turns on these factual questions, MEA believes evidentiary hearings are needed to, at minimum, fully scrutinize and evaluate the veracity of the data the Commission must rely upon when determining whether FCR should be adopted as part of the 2014 RA requirement.

1. Is There an Actual Need for FCR in 2014?

As the Sierra Club and TURN highlight in their Amended Motion, MEA also asks whether the CAISO has adequately presented a sound basis for the Commission to consider adopting a FCR for the 2014 RA procurement cycle, as well as for the subsequent RA program years.[2] Specifically, the CAISO's presentation made during the March 20, 2013 workshop shows that the stock of existing resources with flexible ancillary service capabilities exceeds the maximum CAISO projected need for such flexibility in 2014-2016 by over 15,000 MW.[3] Furthermore, the Sierra Club and TURN's correctly raise questions about the reasonableness of the assumptions CAISO employs to adjust the total amount of flexible resources projected to be available to CAISO meet this new need. Because of the revisions to underlying data and assumptions as to the degree of surplus flexible capacity already available to CAISO, MEA agrees with the moving parties that hearings should be held so that the Commission has a sufficient factual record to support a determination as to whether there is an immediate need for

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existing Resource Adequacy ("RA") capacity procurement obligation applicable to all CPUC-jurisdictional load-serving entities ("LSEs").

[2] Amended Motion at 3-4.

[3] March 20, 2013 Workshop – CAISO Presentation at slide 19.

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such resources to justify imposition of the FCR in the 2014 RA capacity procurement requirement.

2. Is the Need for FCR Better Addressed by Regulatory or Market Mechanisms?

In addition to the factual question of whether there is an immediate need to revise the RA program in light of the existing surplus capacity available to CAISO, there is a separate issue of fact that would be appropriate for exposition during hearings. In MEA's April 5, 2013 comments on FCR workshops and proposals, MEA questioned whether the means for securing any flexible resources is better accomplished by a regulatory structure such as FCR, or instead through market-driven solutions such as new energy or ancillary services products in the CAISO's markets. MEA believes the alleged need to impose an additional complex procurement obligation via FCR could be avoided by the adoption of both load behavior changing programs (*e.g.,* demand response and energy efficiency) and also technologies providing capacity characteristics (*e.g.,* energy storage and electric vehicles) secured via CAISO markets. MEA believes that there is a question of whether the most efficacious means of meeting the purported need for flexible capacity would be through CAISO administered energy and ancillary services markets or through new Commission rules imposing a new layer of capacity procurement obligations on LSE. This is a related factual issue that should be explored through the requested evidentiary hearings.

3. The Potential Anti-Competitive Repercussions of FCR Should Be Examined

MEA is concerned that the proposed FCR may adversely impact certain LSEs more strongly than others, resulting in an anti-competitive dynamic between the different LSEs. As MEA pointed out in its April 5, 2013 comments, the imposition of FCR in the 2014 RA requirement would likely require LSEs with long-term RA contracts to renegotiate the existing

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contracts in order to obtain new rights to claim the flexible capacity attributes, where applicable, or face potential contract disputes. MEA believes the regulatory uncertainty associated with the adoption of an as-yet-undefined new capacity product for the 2014 RA procurement cycle will create a substantial cost burden on those LSEs with multi-year RA procurement positions. LSEs with legacy resources within their capacity portfolios, such as hydroelectric generation resources controlled by the Investor Owned Utilities, would not face the same transactional cost and timing burdens associated with any implementation of the FCR for the 2014 RA procurement cycle. Accordingly, it would be appropriate for the Commission to ascertain facts as to whether the incumbent IOUs hold a significant position on the types of resources expected to provide the FCR, to evaluate the factual and circumstances associated with potentially anti-competitive impacts imposed by the proposed bilateral FCR procurement obligation for the 2014 RA procurement cycle.

4. Consideration of the FCR is Distinctly Different from Prior RA Issues

MEA would like to highlight to the Commission that up to this point the RA proceeding has addressed the system capacity needs created by peak-day usage events. Peak-day events can be reasonably projected and anticipated based on load growth factors, economic conditions and weather-driven loads. Furthermore, peak-day demand can be met with slower-ramping and less flexible generation or demand response resources. The alleged need for FCR is driven by a convergence of significantly less easily predictable circumstances of daily peak load demand and significant hourly fluctuations in electricity generation due to increased utilization of intermittent generation. In this sense the facts surrounding the traditional RA capacity product and FCR product required for renewables integration are driven by distinctly different circumstances (and relatively new phenomena) and should be addressed by distinctly different solutions. MEA

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believes that the Commission needs to develop a sufficient record to consider a new FCR procurement obligation and ought to be more thorough, with verified testimony and examination via evidentiary hearings.

III. **Conclusion**

MEA thanks Assigned Commissioner Ferron and Assigned Administrative Law Judge Gamson for the opportunity to provide this response to Sierra Club and TURN's request for evidentiary hearings. MEA supports these parties' request.

Respectfully submitted,

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