

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)

**REPLY COMMENTS OF ENERNOC, INC., ON
FLEXIBLE CAPACITY PROCUREMENT PROPOSALS**

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EnerNOC, Inc. (EnerNOC) respectfully submits these Reply Comments on the Flexible Capacity Procurement Proposals that have been submitted or have been the subject of Workshops and Comment in Phase 2 of this proceeding. These Reply Comments are timely filed and served pursuant to the Commission's Rules of Practice and Procedure and the ALJ's Ruling Resetting Schedule for Comments on Phase 2 Resource Adequacy (RA) Issues and Scheduling a Prehearing Conference (PHC) issued on March 11, 2013.

I.

**THE MAJORITY OF PARTIES DO NOT SUPPORT ADOPTION OF
EITHER THE JOINT PARTIES' OR ENERGY DIVISION'S FLEXIBLE
CAPACITY PROCUREMENT PROPOSALS FOR RA YEAR 2014.**

It is clear from the Opening Comments on the key pending proposals that a majority of the parties, including EnerNOC, have concluded that it would be premature to adopt a flexible capacity resource adequacy requirement based upon the record to date in this proceeding. These parties all recognize that the information and presentations used by the California Independent System Operator (CAISO) in support of the Joint Parties' Proposal¹ fail to establish a need for flexible capacity procurement for the 2014 RA Year. Further, many of the Opening Comments identify legitimate objections regarding the inconsistency of the Joint Parties' Proposal with the Loading Order of preferred resources and the inherent bias of the proposal toward conventional

¹ The Joint Parties are CAISO, Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E).

generation resources. These concerns also carry over to the nearly identical Revised Energy Division's Proposal. These issues have not been adequately addressed or resolved by the proposals' proponents.²

The Commission must be careful not to adopt new resource requirements without a demonstrated need, especially when, to do so, would exclude the ability of Loading Order preferred resources to meet any flexible capacity requirements now and, potentially, in the future. The Joint Parties' and Energy Division's proposals will impose unquantifiable, unreasonable costs upon ratepayers, are inconsistent with State policy, and will needlessly erect barriers to certain types of very valuable flexible capacity resources. Further, the Commission must be wary of adopting a requirement that is not fully developed without taking into consideration the implications the requirement will have on the market. Therefore, EnerNOC respectfully recommends that the Commission NOT adopt a flexible capacity resource adequacy requirement in its June 2013 RA Decision for application in 2014.

EnerNOC also agrees with parties that encourage the Commission to immediately open the next phase of this proceeding to allow for examination of the legitimate concerns and questions that have been raised regarding flexible capacity procurement mechanisms.³ However, the Commission should not commit, today, to implementing a flexible capacity requirement in 2015 unless and until it is convinced that a need exists in 2015, it has a clear understanding of the magnitude of the need, and the shortcomings of the pending proposals identified by parties have been addressed and satisfactorily resolved consistent with the Commission's and this State's energy and environmental policies. In sum, EnerNOC asks that the Commission not put the cart

² See, e.g., The Utility Reform Network (TURN) Opening Comments, at pp. 1-10; California Large Energy Consumers Association (CLECA) Opening Comments, at pp. 2-10; Sierra Club Opening Comments, at pp. 2-6.

³ See, e.g., Sierra Club Opening Comments, at p. 7; California Wind Energy Association (CalWEA) Opening Comments, at p. 3.

before the horse and adopt a new regulatory requirement before it has adequate information to assess the need and merits of that requirement.

II.
THE JOINT PARTIES AND ENERGY DIVISION HAVE NOT DEMONSTRATED A NEED FOR FLEXIBLE CAPACITY RESOURCES IN 2014, AND ADOPTION OF EITHER PROPOSAL IN THE JUNE 2013 RA DECISION IS NOT JUSTIFIED.

A. A Need for Flexible Resources Has Not Been Demonstrated to Exist in 2014.

EnerNOC's position, that the proponents have not demonstrated a need for flexible capacity in 2014,⁴ is echoed in the Opening Comments of many other parties.⁵ The establishment of need is fundamental to establishing a new resource adequacy requirement. EnerNOC does not believe the Commission can adopt a new resource adequacy requirement without a finding of need. While the proponents tout the benefits of gaining experience by implementing a flexible resource adequacy requirement in 2014, even without a finding of need, EnerNOC submits that allowing such process to go forward, just for the sake of practice, does not, on its face, serve the interests of consumers, who would incur additional costs without the commensurate benefit of additional reliability, and would condone proposals, as currently structured, that contradict the State's preferred energy resource Loading Order and environmental policies.

In lieu of a full implementation of a regulatory requirement, certain parties offered alternatives, such as either a reporting requirement or program only,⁶ modifications to the year-ahead procurement amounts,⁷ or limitations on the requirement applying only in the months of

⁴ EnerNOC Opening Comments, at pp. 5-11.

⁵ TURN Opening Comments at pp. 5-7; CLECA at pp. 2-10; Shell Energy North America (US), L.P. (Shell) Opening Comments, at p. 2; Clean Coalition Opening Comments, at p. 3; Distributed Energy Customer Association (DECA) Opening Comments, at pp. 6-10.

⁶ TURN Opening Comments, at pp. 9-10; Independent Energy Producers (IEP) Opening Comments, at p. 3.

⁷ Center for Energy Efficiency and Renewable Technologies (CEERT) Opening Comments, at pp. 13-14.

January, February and March for 2014.⁸ EnerNOC concedes that there may be some benefits to reporting flexible resources, as part of the demonstrations that load serving entities (LSE) would make in the annual resource adequacy compliance demonstrations, for information purposes only. In this regard, EnerNOC agrees with CalWEA that, at best, a demonstration has only been made for a flexible capacity requirement during certain months, as opposed to an annual requirement.

However, EnerNOC would not support a partial implementation for 2014 because there still remain too many unanswered questions as to the calculation of need. Rather, EnerNOC supports recommendations that focus on using the next twelve months to developing a roadmap; examining the amount of flexible capacity available and needed for 2014 and beyond, including exploring the concerns raised by parties relative to CAISO's estimates; and incorporating preferred resources into a flexible capacity definition. Such an approach will provide a comprehensive, rather than the piecemeal or discriminatory approach that would result from adoption of either the Joint Parties or Energy Division proposals.⁹

B. CAISO's Determination of Need is Overly Conservative.

Many parties have raised concerns about CAISO's calculation of flexible capacity needs because it either included overly conservative assumptions or excluded resources that could be useful in addressing or mitigating flexible capacity resource needs. For example, CAISO assumes that non-resource adequacy (RA) resources will not be available for meeting flexible capacity requirements.¹⁰ As multiple parties point out in their Opening Comments, CAISO has

⁸ CalWEA Opening Comments, at p. 3.

⁹ See, e.g., CEERT Opening Comments, at pp. 4-10; CalWEA Opening Comments, at p. 3.

¹⁰ TURN Opening Comments, at pp. 6-7; EnerNOC Opening Comments, at p. 8; CalWEA Opening Comments, at pp. 5-10.

inappropriately assumed a fairly high forced outage rate of 8%,¹¹ no change in the scheduled maintenance of units as a result of changed operation,¹² low pumped storage capacity availability,¹³ omission of planned capacity additions,¹⁴ no benefit from modifying energy scheduling from hourly to 15-minute schedules,¹⁵ exclusion of import capacity and implementation of FERC Order 764, 15-minute scheduling over the interties,¹⁶ and no benefits from control area cooperation and energy imbalance markets (EIM), either west-wide or particular to the CAISO/PacifiCorp agreement.¹⁷

These Opening Comments clearly demonstrate that that CAISO has not yet adequately explained the incorporation, or omission, of assumptions that factor into its analysis used to determine the need for flexible capacity resources. As such, EnerNOC recommends that the Commission immediately convene the next phase of this RA Proceeding to develop an appropriate record on “need” for flexible capacity resources and address the many shortcomings identified in the pending proposals by multiple parties.

C. Preferred Resources Must Be Considered for Meeting Flexible Capacity Requirement.

Both the Joint Parties and Energy Division flexible capacity procurement proposals discriminate against the Loading Order preferred resources. The resource qualifications used in both proposals are designed for generators only. In this regard, the Joint Parties’ Proposal either requires preferred resources to meet the same availability and dispatch requirements as a

¹¹ TURN Opening Comments, at pp. 6-7.

¹² TURN Opening Comments, at pp. 6-7; CalWEA Opening Comments, at pp. 5-10;

¹³ CLECA Opening Comments, at pp. 6-7; CalWEA Opening Comments, at pp. 5-10

¹⁴ TURN Opening Comments, at pp. 6-7.

¹⁵ Shell Opening Comments, at pp. 5-6; DRA Opening Comments, at pp. 9-13.

¹⁶ TURN Opening Comments, at pp. 6-7; Shell Opening Comments, at p. 8; CEERT Opening Comments, at pp. 10-11.

¹⁷ Shell Opening Comments, at pp. 5-6; Clean Coalition Opening Comments, at p. 8; DRA Opening Comments, at pp. 9-13; CalWEA Opening Comments, at pp. 5-10; CEERT Opening Comments, at p. 13.

generator or wait until sometime in the future when specific requirements can be adopted for preferred resources, including demand resources.

Neither of these options meets the spirit, intent, or letter of the Energy Action Plan and the Loading Order of preferred resources. The Commission should not permit its policies to be so easily ignored.

Instead, the Commission should not adopt a flexible capacity procurement requirement in 2014 and use the time between now and June 2014 to examine the criticisms levied by several parties in this proceeding against the CAISO's analysis, determine the appropriate need, if any, for flexible capacity resources in 2015 and, if a need is established, develop availability requirements for use-limited and preferred resources. Hydro resources should not be the only "exception" considered for purposes of flexible capacity resources.

In fact, it is important to note that the CAISO has, essentially, included a blueprint for use-limited resources in its Opening Comments.¹⁸ By doing so, CAISO agrees with EnerNOC and the many other parties who share the view that use-limited and preferred resources can be incorporated in the product definition of flexible capacity resources that can be procured *when and if* a need for such a requirement is demonstrated.¹⁹ The Commission should not proceed with a half-baked idea that will disadvantage preferred resources simply because the Joint Parties and Energy Division elected, wrongly, not to include preferred resources in their proposals.

D. Market Implications

The Opening Comments of several parties take issue with the failure of the Joint Parties and Energy Division to consider how markets could be used to solve the flexible capacity needs. Specifically, these parties note that meeting flexible capacity needs can be assisted through

¹⁸ CAISO Opening Comments, Figure 1, at p. 7.

¹⁹ EnerNOC Opening Comments, at p. 12; CEERT Opening Comments, at pp. 5-6; Shell Opening Comments, at pp. 6-7; CalWEA Opening Comments at pp. 10-14; Vote Solar Initiative Opening Comments, at p. 4.

sending price signals for where and when the CAISO needs energy or ancillary services.²⁰

Further, parties will not be able to enter into commercial transactions for a flexible capacity product until the characteristics and requirements of the product are fully defined.²¹

When the first resource adequacy requirement was adopted back in 2004, some transactional difficulties were experienced in the implementation of that requirement because a universal definition of resource adequacy for contractual purposes was not in place. Similarly, before parties can enter into commercial transactions for flexible capacity, it is necessary to have an understanding as to what the standard contract language will be. In addition, must-offer obligations (MOO) need to be developed. A new requirement can have unsettling effects on existing RA contracts. The Commission must, therefore, explore the implications of implementing a new RA requirement to new and existing RA contracts.

It is unfortunate that CAISO has not considered the possibility of using market signals to indicate when and where it needs energy and ancillary services, as opposed to constructing a new resource adequacy requirement. It is possible that discounting the year-ahead demonstration to 50% or 60% of the requirement and procuring the balance in the month-ahead timeframe may provide some signals as to the value of these resources.

There should, at least, be some examination as to the effects on the markets of having all designated flexible resource adequacy resources bidding to provide energy for 17 hours/day. The Commission should not underestimate the unsettling impacts to the market that result from a new, but not adequately defined, product and should instead immediately endeavor to address the concerns expressed by those market participants.

²⁰ EnerNOC Opening Comments, at p.13; Shell Opening Comments, at pp. 9-10.

²¹ IEP Opening Comments, at p. 11; Shell Opening Comments, at pp. 8-9.

III. CONCLUSION

EnerNOC agrees with the prevailing sentiment in the Opening Comments filed by multiple parties that neither the Joint Parties' Proposal nor the Revised Energy Division Proposal for flexible capacity procurement is ready for implementation in 2014. EnerNOC recommends that the Commission NOT implement a flexible capacity resource adequacy requirement in 2014. Instead, EnerNOC recommends that the Commission expeditiously open the next phase of the proceeding to consider resolution of outstanding issues identified in these reply comments.

Respectfully submitted,

April 15, 2013

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