

**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)

**VOTE SOLAR INITIATIVE
REPLY COMMENTS ON RESOURCE ADEQUACY
AND FLEXIBLE CAPACITY PROCUREMENT**

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Dated: April 15, 2013

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The Joint Parties (CAISO, SCE, SDG&E and PG&E) argue the Commission should adopt a flexible capacity program in 2014, whether it is needed or not. Far more parties, representing a wide range of interests, including customers, renewables, generators and others, provide numerous reasons and details for why the Commission should not adopt a flexible capacity program in 2014, especially when no need has been demonstrated. The Vote Solar Initiative (Vote Solar)¹ supports this latter view and firmly believes that the Joint Parties' and Energy Division proposals contain too many critical data gaps, unsupported and overly conservative assumptions and undesirable policy consequences for the Commission to approve even a trial flexible capacity program for 2014. Based on the comments submitted on April 5, 2013, the most reasonable course of action for the Commission is to take the time to address the identified deficiencies and focus on designing a more reasonable, cost-effective and environmentally sensitive program for implementation no earlier than 2015.

Most surprising to Vote Solar is the failure of the Joint Parties to adequately respond, if at all, to the critical questions posed by Commissioner Ferron and ALJ Gamson. Since the Joint Parties bear the burden of supporting their proposals with accurate and sufficient data and analyses, their failure to do so should give the Commission significant pause, in particular, to avoid a result that favors speed over substance.

¹ Vote Solar is a non-profit grassroots organization working to fight climate change and foster economic opportunity by bringing solar energy into the mainstream. Since 2002, Vote Solar has engaged in state, local and federal advocacy campaigns to remove regulatory barriers and implement key policies needed to bring solar to scale.

I. There is no need for a flexible capacity program in 2014

Vote Solar and many other commenters point out that the CAISO's own data shows that the existing generation fleet will provide CAISO with more than enough flexible capacity to satisfy its flexible capacity needs, at least for 2014.² It also appears the CAISO has not considered either the significant amount of new flexible generation expected to come on-line in the CAISO control area in 2014 and beyond³ or recent Energy Imbalance Market developments that may significantly increase the availability of flexible generation resources available to the CAISO, potentially as early as 2014.⁴

The CAISO acknowledges that it "is not asserting that there is insufficient flexible capacity in the ISO Balancing Authority Area in 2014"⁵ and that "Figure 6 shows sufficient effective flexible capacity available to meet the flexible capacity requirement in 2014."⁶ Instead, the CAISO argues that the Commission should adopt a flexible capacity program for 2014 because "using conservative reductions to the calculated effective flexible capacity of the procured resource adequacy fleet, there is a risk that the resource adequacy program would not provide the ISO with sufficient flexible capacity in 2014."⁷ However, as Vote Solar noted in its opening comments, the Commission already has determined, in D.13-03-029, that such speculative assertions cannot be a basis upon which the Commission should act.⁸ Further, as CLECA aptly notes, "[a]dding more capacity that does not meet future needs will simply suppress market prices for existing resources and burden consumers with costly contractual or rate base obligations for many years to come."⁹ The bottom line is that lacking any definitive

² CAISO March 20, 2013 Presentation at the CPUC RA Workshop, Slide 19.

³ Sierra Club and Vote Solar Initiative Comments on the Resource Adequacy and Flexible Capacity Procurement Joint Parties' Proposal, dated December 26, 2012 ("Vote Solar December 26, 2012 Joint Comments"), pp.10-11; TURN April 5, 2013 Comments, p.7 ("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.")

⁴ Vote Solar Comments on Resource Adequacy and Flexible Capacity Procurement, dated April 5, 2013 ("Vote Solar April 5, 2013 Comments"), pp.4-5, DRA April 5, 2013 Comments, p.10

⁵ CASIO April 5, 2013 Comments, pdf p.19.

⁶ CASIO April 5, 2013 Comments, pdf p.25. Also, PG&E April 5, 2013 Comments, p.11

⁷ CASIO April 5, 2013 Comments, pdf p.24.

⁸ Vote Solar April 5, 2013 Comments, p. 2, citing D.13-03-029, p.17. *See also* Shell April 5, 2013 Comments, p.4.

⁹ CLECA April 5, 2013 Comments, p.10

need for a flexible capacity program in 2014, the Commission should not adopt any proposals seeking to implement a flexible capacity program in 2014, even on a limited, trial basis.

II. There are no significant benefits to be derived from, and significant risk associated with implementing a trial, resource restricted flexible capacity program in 2014

The Joint Parties argue that even though the CAISO may not need flexible capacity in 2014, the Commission still should adopt their proposals as a trial program in 2014 to let interested parties “try it out” and gain experience.¹⁰ However, many of the commenting parties raise significant concerns about instituting a trial program, and even the Joint Parties acknowledge a trial program in 2014 would be less than optimal.¹¹

Vote Solar previously described its concerns about adopting any flexible capacity program designed to limit participation only by fossil-fueled facilities.¹² Many of the commenting parties agree with Vote Solar that the likely result of approving the Joint Parties’ proposals, even on an interim, trial basis, will lock-in the preference for fossil-fueled facilities and exclude participation by more preferred and less GHG emitting resources, potentially for many years to come.¹³ As well-summarized by EnerNOC:

While approving a flexible capacity requirement for 2014 may provide parties an opportunity to gain operational experience, only a portion of the resources, those that are primarily gas-fired generators, would gain from that experience. In fact, that experience could prove to be detrimental to other resources that have not been included in the definition of the flexible capacity product, such as demand response and other preferred resources. Those resources would be sidelined while the gas-fired resources gain market experience. In doing so, there may be no incentive, even with a proposal labeled “interim,” to expand this procurement mechanism in future RA cycles to include preferred resources. EnerNOC certainly does not believe that either an immediate (by

¹⁰ For example, CASIO April 5, 2013 Comments, pdf p.25.

¹¹ For example, PG&E April 5, 2013 Comments, p.17 (“There will remain a number of topics that must be addressed in the near future. Issues for refinements include, among others, additional aspects of flexibility (such as downward) as well as treatment of non-hydro use-limited resources, treatment of storage, and most urgently, treatment of demand response.”)

¹² Vote Solar December 26, 2012 Joint Comments”), pp.14-16; Vote Solar April 5, 2013 Comments, pp.3-4.

¹³ For example, Clean Coalition April 5, 2013 Comments, p.7 (“The proposed definition of flexible capacity, including the ramp rates, start times, 3 hour period of continuous operation and year round daily availability requirements are operational characteristics of gas turbines.)

2014) flexible capacity procurement need exists or that it is appropriate to adopt a procurement proposal now, even on an interim basis, where the “experiment” will be limited to only fossil and not preferred resources.¹⁴

The Joint Parties acknowledge that their 2014 program proposals are limited and that important issues raised by Vote Solar and other parties will not be addressed until 2015 or later:

SDG&E: “the following provisions [should] be considered for the 2015 Compliance Year following further vetting and deliberations [including] . . . Eligibility criteria encouraging the provision of flexible capacity by suppliers representing energy-storage technologies, demand response, renewable resources, and use-limited resources (other than hydroelectric generation which is addressed elsewhere) . . . and, Alternative methodologies for allocating the flexible-capacity requirement among load-serving entities which align more closely to cost-causation principles.”¹⁵

PG&E: “The Commission and the parties should work to ensure that the flexible component of the RA program is structured so that it fully captures all of the flexibility attributes needed to operate the system reliably, and so that it does not unintentionally disadvantage available non-traditional resources (such as demand response, energy efficiency, and storage) that may be able to help meet those flexibility requirements cost-effectively but with less GHG impact than traditional, fossil fuel-powered resources. . . . Issues for refinement include, among others, additional aspects of flexibility (such as downward) as well as treatment of non-hydro use-limited resources, treatment of storage, and most urgently, treatment of demand response. PG&E urges the Commission to move forward this summer to address how demand response programs might be structured so that they can help meet the flexibility requirements of the system in 2015 and beyond.”¹⁶

SCE: “The following refinements to the interim flexible capacity procurement requirements should be further discussed in workshops later this year and resolved in time for implementation in the 2015 RA compliance cycle [including] Establishment of refined eligibility criteria and/or removal of participation barriers

¹⁴ EnerNOC April 5, 2013 Comments, p.10.

¹⁵ SDG&E April 5, 2013 Comments, pp.3-4

¹⁶ PG&E April 5, 2013 Comments, pp.3-4

for qualified energy storage, demand response, and non-hydro use limited resources [and] Revision of the requirement allocation process to align more closely to cost-causation principles.”¹⁷

The Joint Parties have not provided any substantive reasons for their “speed over substance” approach that excludes participation by more preferred resources from the start. As CLECA notes:

If hydro can receive special treatment, there is no reason why these other resources cannot. Furthermore, while there was discussion of addressing such resources next year, there is no assurance that a viable proposal to allow use-limited preferred resources will emerge next year. This concern is heightened by the ED’s statement about future discussions on “whether a limit should be imposed on the amount of use-limited resources that should qualify under these criteria.” This proposed restriction is raised before the use of such resources is even being contemplated, much less addressed. The implication is that use-limited resources may never qualify on an equal basis with gas-fired generation to provide flexibility, especially since many of these use-limited resources are preferred resources. This would contravene Commission policy to encourage the use of preferred resources.¹⁸

Since there is no need to implement a flexible capacity program in 2014, especially not a resource restricted trial program, the Commission, instead, should use the time to consider and address the relevant issues associated with instituting a flexible capacity program that is as fully functional, cost-effective and policy compliant as reasonably possible. The bottom line, as DECA succinctly states, “the stakes are too high and the implications not sufficiently vetted in this proceeding for the Commission to value the benefits of “practice” against the costs of implementing a poorly considered “interim” plan.”¹⁹

¹⁷ SCE April 5, 2013 Comments, p.3

¹⁸ CLECA April 5, 2013 Comments, pp.8-9; *See also* CEERT April 5, 2013 Comments, p.10 (“The failure of the Joint Parties Proposal to include a resource (hydro) that has reliably and cost effectively provided “flexibility” to California’s grid for over a century only underscores the highly and inappropriately restrictive nature of that proposal.”)

¹⁹ DECA April 5, 2013 Comments, p.6.

III. The cost implications of the flexible capacity program proposals have not been adequately addressed

Commissioner Ferron asked that parties address “the cost implications of your proposal or alternative proposals, or of not doing anything, with adopting a new flexibility requirement in the RA program.”²⁰ Public Utilities Code (PUC) section 380(b) requires the Commission, “in establishing resource adequacy requirements,” to consider the need, economics and costs of developing new generation or retaining existing generation.²¹ The proponents for the adoption of a new flexibility capacity requirement have the burden of satisfactorily answering Commission Ferron’s question, in part because they have the best access to this necessary information.

It is surprising, therefore, the extent to which the Joint Parties admit (or by their lack of specificity, implicitly acknowledge) their ignorance of the cost implications of instituting their flexible capacity program proposal. Their convoluted explanations provide little information other than to tell the Commission it needs to keep an eye on costs as their program develops:

SDG&E: “SDG&E does not believe there will be significant cost implications from implementing the proposed flexible-capacity requirement in and for Compliance Year 2014. For future years, SDG&E believes the implementation of the requirement for Compliance Year 2014 will provide the Commission with the earliest possible opportunity to consider and address the implications of the flexible-capacity requirement from both a cost and operational perspective in the other Commission proceedings, notably the upcoming long-term procurement proceeding and the various energy-cost proceedings of the investor-owned utilities, scheduled for 2014.”²²

PG&E: “PG&E has not rigorously quantified the cost implications of the various proposals at this time. In assessing the cost implications of each proposal, including “change nothing,” the focus should be on the differential costs between each option. Such a cost analysis would have to look at both the direct and indirect costs implied by each proposal. Direct costs should include incremental procurement costs as well as the costs of implementing new systems to track, report and check compliance

²⁰ R.11-10-023, Prehearing Conference Transcript, March 20, 2013, p.5

²¹ Pub. Util. Code section 380(b)(1) and (3) (emphasis added)

²² SDG&E April 5, 2013 Comments, pp.11-12

with the requirements. Indirect costs should consider the impact of continued uncertainty associated with not knowing what the flexible requirements will be and how and when they will be adopted. Such uncertainty could lead to more shorter-term rather than longer-term contracts. Such uncertainty may also impact a resource owner's decisions about major maintenance and retirement. Again, PG&E cannot opine on the magnitude of the cost implications of each proposal."²³

SCE: "the cost implications of either proposal are dependent upon the scarcity of the product. If there are an abundance of resources that qualify to provide flexibility with a relatively low need for such resources, the impact to the cost of capacity may be very low. As the need for the resources increases with increased penetration of intermittent resources driving a steeper net load curve as described by the CAISO, and if the build out of flexible resources creates scarcity, then we would expect prices to rise. Based on the discussions to date, SCE believes that in this interim proposal period, the demand and supply conditions for flexible resources will not create severely constrained scarcity and therefore should not have large impacts on the cost of capacity."²⁴

The proponents' cost "information" does not sufficiently answer Commission Ferron's question nor provide a reasonable basis upon which the Commission can determine if the proposed flexible capacity programs satisfy the requirements of PUC section 380(b). Therefore, the Commission should not adopt a flexible capacity program for 2014 and use the time to more fully investigate and determine the cost implications of adopting or not adopting a flexible capacity program and the most cost-effective design for a workable and compliant flexible capacity program.

IV. The GHG implications of the flexible capacity program proposals have not been adequately addressed

Commission Ferron also asked the parties to address "the short-term and long-term GHG implications of your recommendations, including how your proposal impacts our ability to meet RPS and carbon cap and trade mandates in the state."²⁵ Again, the burden is on the Joint Parties

²³ PG&E April 5, 2013 Comments, p.3

²⁴ SCE April 5, 2013 Comments, p.5

²⁵ R.11-10-023, Prehearing Conference Transcript, March 20, 2013, p.5

to provide the Commission with sufficient information upon which to reasonably determine these impacts and what revisions are required to minimize GHG impacts.

Once again, however, the Joint Parties' responses lack substance or are contradictory (or in SDG&E's case, missing entirely):

SCE: "there should be no impact on GHG. The development contemplated here is for a capacity market. The capacity in and of itself has no implication for GHG. It is the dispatch of such resources that has an implication for GHG. It is also important to note that the CAISO has defined the need for flexible resources as a reliability concern. Thus, the CAISO has developed the characteristics of a resource that would be necessary to address the reliability concern. As such, the CAISO and the Joint Parties have generally offered that any resource providing the reliability service should qualify to provide flexible RA. If non-emitting resources are capable of meeting the reliability need, then those resources could provide such capacity and, if then dispatched by the CAISO, would have a diminished impact on GHG when compared to a fossil fuel fired plant."²⁶

PG&E: "The revisions that the Energy Division has proposed relating to flexible hydro are significant in this regard. They ensure that the flexibility of hydro facilities is more fully utilized. This helps to minimize greenhouse gas (GHG) emissions relative to what would occur if hydro resources were not utilized to meet system flexibility requirements. Longer-term, the 2014 flexible RA framework should not be thought of as the final word on flexible RA. The Commission and the parties should work to ensure that the flexible component of the RA program is structured so that it fully captures all of the flexibility attributes needed to operate the system reliably, and so that it does not unintentionally disadvantage available non-traditional resources (such as demand response, energy efficiency, and storage) that may be able to help meet those flexibility requirements cost-effectively but with less GHG impact than traditional, fossil fuel-powered resources. By doing so, the Commission can ensure that a fossil fuel-powered resource is not the only choice to provide flexible RA when other, less GHG-intensive resources are available that could provide flexible RA."²⁷

As parties repeatedly have noted, and the Joint Parties have not denied, the Joint Parties

²⁶ SCE April 5, 2013 Comments, pp.5-6

²⁷ PG&E April 5, 2013 Comments, pp.3-4

have designed their flexible capacity program in a way that is significantly biased toward fossil-fueled generation, since only fossil fuel-fired generators can satisfy the proposed 3-hour ramping requirement. Although PG&E seems to understand that zero and low carbon emission sources, such as renewables, demand response and energy storage will lessen GHG impacts, PG&E still asks the Commission to defer considering any role for such resources until a later time.

However, none of the Joint Parties have provided any valid reasons for the Commission to defer the determination of GHG impacts of the Joint Parties' fossil-fueled biased proposal, especially when there is no established need to implement a flexible capacity program in 2014. Once again, instead of rushing to implement a trial, fossil-fuel biased program in 2014, the CPUC should use the time to thoroughly consider GHG impacts and adopt a flexible capacity program that best complies with the state's goals to decrease GHG emissions.

V. Conclusion

There is no demonstrated need or urgency to implement a flexible capacity program in 2014, especially one that elevates speed over substance. Instead, the Commission should use the time to investigate, determine and adopt a flexible capacity program that reasonably balances the Commission and the state's economic, efficiency, cost-effectiveness, loading order and GHG emissions reduction goals. As TURN correctly warns, "[i]t is important for the Commission to 'get it right', or as right as possible, before implementing such a requirement."²⁸ For all these reasons, the Commission need not and should not approve a flexible capacity program for implementation in 2014.

Dated: April 15, 2013

Respectfully submitted,



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²⁸ TURN April 5, 2013 Comments, p.5