

**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

R.11-10-023
(Filed October 20, 2011)

**COMMENTS OF THE WESTERN POWER TRADING FORUM IN REGARD
TO FLEXIBLE CAPACITY PROCUREMENT ISSUES**

Daniel W. Douglass
DOUGLASS & LIDDELL
21700 Oxnard Street, Suite 1030
Woodland Hills, California 91367
Telephone: (818) 961-3001
Facsimile: (818) 961-3004
Email: douglass@energyattorney.com

Attorneys for
WESTERN POWER TRADING FORUM

April 5, 2013

TABLE OF CONTENTS

I. OPENING REMARKS1

II. COMMENTS ON THE ENERGY DIVISION PROPOSAL3

 A. The Commission Should Adopt a Trial Program for 20143

 B. It is Too Soon to Adopt a Prescriptive Must Offer Obligation5

 C. The Interim 2014 Trial Period May Also be Used to Address Other Issues,
 Including a Multi-Year Forward RA Obligation and Centralized Capacity
 Market.6

 D. Contractual Modifications May be Required.8

 E. What Changes Should be Made to the ED Proposal?8

III. CONCLUSION.....9

**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

R.11-10-023
(Filed October 20, 2011)

**COMMENTS OF THE WESTERN POWER TRADING FORUM IN REGARD
TO FLEXIBLE CAPACITY PROCUREMENT ISSUES**

Pursuant to the schedule set forth in the March 11, 2013, Administrative Law Judge's Ruling Resetting Schedule for Comments on Phase 2 Resource Adequacy Issues and Scheduling a Prehearing Conference ("Ruling") in this proceeding, the Western Power Trading Forum ("WPTF")¹ provides these comments addressing the revised Energy Division proposal² that was attached to the Ruling ("ED Proposal").

I. OPENING REMARKS

WPTF's comments are based on the perspective of very active market participants that find issues at the CAISO and this Commission dealing with resource adequacy ("RA")-related matters to be of significant importance. As noted in our December 26, 2012 comments,³ WPTF's intent is to highlight improvements that are required to increase the efficiency and effectiveness of the RA program consistent with the Commission's stated goal for the program:

First, the Commission seeks through RAR to ensure that the infrastructure investment required for reliability actually occurs. Second, the Commission seeks

¹ WPTF is a California non-profit, mutual benefit corporation dedicated to enhancing competition in Western electric markets in order to reduce the cost of electricity to consumers throughout the region while maintaining the current high level of system reliability. WPTF actions are focused on supporting development of competitive electricity markets throughout the region and developing uniform operating rules to facilitate transactions among market participants.

² See, *Energy Division Flexible Capacity Procurement Revised Proposal*.

³ See, *Comments of the Western Power Trading Forum in Response to the Phase 2 Scoping Memo and Ruling* ("December 26 Comments").

to ensure that the generation capacity made possible through that investment is available to the grid at the times and at the locations it is needed. Third, the Commission intends that capacity must be sufficient for stressed conditions, i.e. sufficient generation should be available under peak demand conditions even when there are unexpected outages.⁴

In summary, WPTF believes that the ED Proposal shows promise for enhancing compliance with the Commission goals specified above, subject to certain revisions as discussed in the following comments.

At the prehearing conference held on March 20, Administrative Law Judge (“ALJ”) Gamson requested that parties’ comments should address whether the Commission should adopt the Joint Parties’ or ED Proposal, in whole or in part and, if in part, what specific revisions were required. Parties also were asked to address whether the Joint Parties proposal can be adopted in whole because of jurisdictional issues as it goes to both Commission and CAISO activities. Finally, ALJ Gamson asked for parties to provide specific findings of fact, conclusions of law and ordering paragraphs.⁵

WPTF is encouraged that the ED Proposal and the Joint Parties Proposal appear to be closely aligned, eliminating the potential for disparate compliance regimes that would create market confusion and uncertainty. Moreover, the two agencies appear to be working in a cooperative fashion to address their respective and overlapping jurisdictional authority, which also serves to ensure that the RA program can and will meet the stated goals of ensuring a reliable and efficient grid. As such, WPTF’s comments herein presume that the two agencies will continue in this cooperative fashion to meld various proposals into one comprehensive and well-designed RA program.

⁴ D.05-10-042, at pp. 7-8

⁵ WPTF recommended findings of fact, conclusions of law and ordering paragraphs are included in Attachment A hereto.

In the comments below, WPTF recommends that policy goals should be adopted for the interim period of 2014, with specific implementation both as to generators and load-serving entities (“LSEs”) in 2015. It also suggests certain conditions to the approval of the Pacific Gas & Electric (“PG&E”) proposal for hydro use-limited resources. As for jurisdictional concerns, WPTF concurs with ALJ Gamson’s concerns that the Commission cannot act unilaterally in this matter. Instead, as noted at the February 26, 2013 Long Term Resource Adequacy Summit, considerable inter-agency cooperation and coordination are required to achieve the necessary degree of resource adequacy flexibility.

II. COMMENTS ON THE ENERGY DIVISION PROPOSAL

WPTF offers the following comments in response to the ED Proposal. We do not speak to all Phase 2 issues, but reserve the right to address the issues discussed by other parties in the reply comments due on April 15.

A. The Commission Should Adopt a Trial Program for 2014

WPTF understands that both the Commission and the California Independent System Operator (“CAISO”) want to incorporate greater flexibility requirements within the RA structure, in order to help ensure that the type of resources needed to maintain a reliable grid are available as the use of intermittent resources increases. However, WPTF is concerned that the ED Proposal would impose a very prescriptive must offer obligation (“MOO”), and that the CAISO has insufficient experience with such a requirement to justify imposing one at this time. Moreover, neither the ED nor the Joint Parties have addressed compliance issues, such as the applicability and level of penalties or other sanctions that will apply to Load Serving Entities (“LSEs”) who fail to meet the new requirements, and the circumstances under which compliance waivers, and or backstop procurement will be appropriate. These are critical components of any RA program that incorporates flexible requirements, and must be carefully and completely

codified in order to bring certainty and clarity to the buying and selling of capacity that meets the flexible capacity requirements. WPTF simply does not believe that it is possible to finalize the overall design and regulations for these components in time for an order to be issued in the June 2013 time frame – which is the very latest time by which a flexible capacity requirements order must be issued for buyers and sellers to manage their procurement in time for the 2014 compliance showings. Therefore, WPTF recommends the approach of implementing flexibility requirements in 2014 without a MOO and without a specific compliance obligation, so that the Commission, CAISO and market participants can use 2014 as a “trial run” program year, as described below:

1. The CAISO/Commission would provide market participants with (i) the overall level of the 2014 flexible requirements, (ii) an allocation of those requirements to the LSEs based on the allocation mechanisms described in the ED Proposal, and (iii) the amount of Net Qualifying Capacity (“NQC”) from existing resources that can meet the flexible requirements.
2. Individual LSE’s 2014 RA compliance will be predicated upon meeting the system and local requirements as in past years.
3. When LSEs submit their 2014 RA compliance showings, those showings will be analyzed to see if the 2014 procurement actually met the flexible requirements or not.
4. For 2014, there will be no specific MOO imposed on suppliers, nor will there be any sanctions or other penalties imposed on LSEs whose RA portfolios do not meet their flexible requirement allocation.

WPTF believes that such an analysis would be a good real world test of the extent to which existing system and local RA procurement would meet flexibility requirements. Effectively, this approach would mean that LSEs would have an assigned flexibility target and as

they buy RA that meets their system and local RA obligations, they would be able to ascertain the extent to which those purchases also meet their share of the flexibility requirements. However, neither a firm must offer nor a firm LSE requirement would be imposed until at least 2015 or 2016.

B. It is Too Soon to Adopt a Prescriptive Must Offer Obligation

WPTF supports delaying the imposition of a prescriptive MOO for several reasons. First, how the must-offer obligation would apply to use-limited resources has not yet been fully developed. This is an important and likely contentious issue that WPTF believes will take some time to work through - more time than is afforded by the schedule that would call for a proposed decision on this matter in June of this year.

Second, while WPTF believes that the current levels of self-scheduling detract from overall market efficiency, and can produce extreme and confusing market results, and generally agrees that a resource that is providing flexibility must be required to submit an economic bid, WPTF reluctantly notes that some level of self-scheduling is still necessary under some conditions to protect resources from adverse outcomes from the CAISO's market optimization. Until market participants are fully confident in the results of the CAISO's optimization, prohibiting self-scheduling from resources providing flexibility will prove a difficult pill to swallow. WPTF supports a thorough examination of self-scheduling to identify why parties engage in this practice. Those results should inform courses of action that the CAISO can and should take to reduce the need for or desire to self-schedule. This would be a very useful exercise to engage in prior imposing a MOO that will be tantamount to prohibiting self-scheduling from resources providing flexibility.

C. The Interim 2014 Trial Period May Also be Used to Address Other Issues, Including a Multi-Year Forward RA Obligation and Centralized Capacity Market.

An ongoing issue in the California market is that CAISO rules limit the ability of generators to cover their operating costs. WPTF believes that the CAISO design enhancements are required relating to Commitment Cost (where proxy cost methodology is updated to include major maintenance costs) and Multi-State Generators (which will better equip the CAISO to know the costs and limits based on each different configuration, hopefully eliminating dispatches into the “forbidden regions” of a unit). These enhancements are currently slated for the Fall 2013 market software release⁶ (October 1, 2013) and should be considered prerequisites to the imposition of stricter requirements on generator bidding and LSE procurement activities.

In effect, the 2014 RA compliance year should be used to (1) finalize the methodology for determining the flexibility requirements; (2) set rules (technology-indifferent, to the maximum extent possible) for how resources count towards meeting this requirement; (3) allocate the requirements that will be applicable to each LSE; (4) finalize any remaining issues associated with determining the amount of flexible capacity that can be provided by RA eligible generating units; (5) develop compliance rules that are applicable in the event of inadequate flexible capacity available in the market and how LSE obligations will be adjusted to reflect this; and (6) establish administrative processes through which it can be determined whether the flexibility requirement is met, including rules dealing with non-compliance, cure periods and other administrative procedures.

While WPTF believes that it is reasonable to utilize the RA program to require procurement of needed flexibility, it is not necessarily the desired end state. Additional biddable ancillary service products should be developed in order to provide the ramping, load following,

⁶ See, the CAISO Master Stakeholder Engagement Plan, at: <http://www.caiso.com/Documents/MasterStakeholderEngagementPlan.pdf>

and regulation services that are critical to reliable grid management. The CAISO should work to develop these additional ancillary service products for integration within its day-ahead and real-time dispatch algorithms.

Moreover, the implementation of multi-year forward capacity obligation and a centralized capacity market is also slated for additional discussion, and WPTF hopes, implementation. In a multi-year forward capacity market, the desired amount of flexibility would be modeled as a constraint that would bind only if insufficient flexible resources clear in the multi-year forward time frame, providing sufficient time to cure the deficiency before the real-time operating horizon where there are far fewer options available to cure the deficiency.

Finally, as indicated above, WPTF supports the implementation of a multi-year forward capacity obligation and the implementation of centralized capacity market. If and when flexible capacity requirements are added to the RA program, the need for a centrally administered capacity clearing market will be even more critical to ensure that all LSEs, especially Electric Service Providers (“ESPs”) and Community Choice Aggregators (“CCAs”) can manage their RA obligations. Until such time as energy and ancillary services prices appropriately reflect scarcity value and demand response provides effective market discipline, a properly designed capacity market is necessary to retain needed capacity resources and send the appropriate price signals for new investment. While this is neither the time nor place to go into details on such a proposal, a centralized capacity market will be critical to manage flexible capacity positions in a manner that works for all market participants. It makes sense to have a centralized market that clears the capacity requirements and ensures procurement of the aggregate requirements, and allows market participants to adjust and reconfigure their RA holdings as the actual time of delivery approaches.

D. Contractual Modifications May be Required.

An interim 2014 trial period, as recommended herein, will also provide time for market participants to discuss what if anything needs to be done to modify existing contracts. It may be that certain existing contracts have provisions to cover the implementation of flexibility. Other contracts may not be drafted so broadly and thus require modification.⁷ Such contract modifications must be effectuated by the parties to those contracts, and such negotiations may take more time than is afforded by a June deadline. The main goal should be to ensure that generators and LSEs that are tasked with the buying and selling of RA-compliant products do not have too much uncertainty and are able to avoid compliance errors. By adopting the 2014 interim approach recommended above, there will be adequate time to identify and resolve any contract modification issues that may exist.

E. What Changes Should be Made to the ED Proposal?

The ED Proposal addresses use-limited resources in Section 6, saying that:

Staff's opinion is that the MOO requirement in the Joint Proposal for flexible capacity is overly restrictive for use-limited resources (e.g. hydro), and rules out the opportunity for many of these valuable resources to participate as flexible capacity resources in the markets. Therefore, staff supports PG&E's proposal that flexible hydro resources should be required to submit economic bids, within environmental constraints such as mandatory water deliveries and start up restrictions.⁸

WPTF is concerned with PG&E's proposed hydro carve-out provision contained in Attachment A to the ED Proposal.⁹ WPTF's concern is based on the special purpose nature of the PG&E proposal - put simply, rather than an exclusive hydro provision, there should be a rule that applies to all use-limited resources uniformly. Nevertheless, WPTF acknowledges that the

⁷ WPTF expects that the most likely impact on RA contracts of implementing an interim flexible capacity obligation is that the RA contracts will have to expressly identify how much flexible capacity a resource is capable of providing. Without this sort of guidance, LSEs will be adrift and unable to ascertain how to focus their procurement efforts.

⁸ ED Proposal, at p. 5.

⁹ See, Attachment A - *PG&E proposed process to quantify flexibility within a hydro resource.*

Commission should not delay any action on use-limited resources and therefore suggests a compromise. The ED Proposal and the PG&E proposed process to qualify flexibility within a hydro resource should apply beginning in 2014, along with a commitment from the Commission and CAISO to work with interested stakeholders to establish similar rules for other use-limited resources. There has been a good deal of discussion over the fact that Demand Response (“DR”) and other use-limited resources were being left out of the flexibility discussion, and there should be a unwavering commitment to establish flexibility protocols for DR and other use-limited resources in 2014.

WPTF therefore supports the concept that use-limited resources should be available during the most valuable hours (i.e., when the max 3 hour ramps are occurring), as the ability to shift these resources into those ramps is valuable. However, carefully designed measurement and verification rules will be critical in order to develop a product/resource that is providing a level of flexibility that is equivalent to the flexibility offered by generating resources and that the CAISO can count on. In conclusion, the Commission needs to acknowledge that there are other use-limited resources that should be entitled to a similar provision and the Commission and all parties must commit to developing such a standard in 2014.

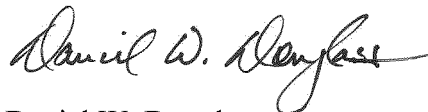
III. CONCLUSION

In summary, WPTF recommends that for 2014, the Commission’s implementation of flexible capacity requirements should take the approach of a “trial run” that specifies the flexible capacity requirement, but stops short of imposing a MOO on flexible generation and stops short of imposing sanctions or penalties for non-compliance. This interim period will permit the Commission and CAISO time to establish the methodology for how to determine the need for flexibility; set rules for how resources count towards meeting this requirement and their performance obligations; define the allocation of those requirements to each LSE; determine

specific compliance provisions that will apply in the event of inadequate flexible capacity available in the market and how LSE obligations will be adjusted to reflect this; and establish administrative processes through which it can be determined whether the flexibility requirement is met, including rules dealing with non-compliance, cure periods and other administrative procedures. It will also provide parties the time to become acclimated to these new requirements and make any necessary contract modifications. Such an approach also provides additional time for the CAISO and the Commission to continue the discussions regarding a multi-year forward RA obligation and centralized capacity market.

Further, as noted above, WPTF believes that the various categories of flexible resources required to manage the variability of load in real time can be structured as ancillary services. New biddable ancillary services could provide both generators and LSEs with clear and transparent price signals that will ultimately be more efficient than simply embedding flexibility requirements in the RA program. WPTF respectfully submits these comments and requests that the Commission adopt the recommendations contained herein.

Respectfully submitted,



Daniel W. Douglass

DOUGLASS & LIDDELL

21700 Oxnard Street, Suite 1030
Woodland Hills, California 91367

Telephone: (818) 961-3001

Facsimile: (818) 961-3004

Email: douglass@energyattorney.com

Attorneys for

WESTERN POWER TRADING FORUM

April 5, 2013

ATTACHMENT A

Attachment A

Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs¹⁰

Findings of Fact

- Implementing a flexible capacity mechanism will require significant adjustments for market participants, including both generators and load-serving entities.
- Time will be required for market participants, the Commission and CAISO to work out the details of such a mechanism in order to minimize market disruption while maximizing resource adequacy flexibility.
- It would be premature to implement either a must-offer obligation or an LSE penalty enforcement mechanism until such time as the flexibility mechanism is more clearly defined and market participants have been given adequate time to adjust their operations and contractual arrangements accordingly.
- An interim trial period for the calendar year of 2014 is therefore justified as discussed herein.
- This interim period will permit the Commission and CAISO time to cooperatively establish the methodology for how to determine the need for flexibility; set rules for how resources count towards meeting this requirement and their performance obligations; define the allocation of those requirements to each LSE; determine specific compliance provisions that will apply in the event of inadequate flexible capacity available in the market and how LSE obligations will be adjusted to reflect this; and establish administrative processes through which it can be determined whether the flexibility requirement is met, including rules dealing with non-compliance, cure periods and other administrative procedures.
- It will also provide parties the time to become acclimated to these new requirements and make any necessary contract modifications.
- Such an approach also provides additional time for the CAISO and the Commission to continue the discussions regarding a multi-year forward RA obligation and centralized capacity market.
- A firm RA flexibility program involving stricter requirements for both generators and LSEs will be deferred until 2015, or later, depending on the future analysis of 2014 results and further discussion among the Commission, CAISO and stakeholders.
- The PG&E proposal for use-limited resources contained in Attachment A to the ED Proposal is adopted. However, the Commission acknowledges that rather than an

¹⁰ Numbering is not included as the suggested provisions above will have to be inserted into the proposed decision of ALJ Gamson and do not include all required language.

exclusive provision related to hydroelectric resources, there should be a rule that applies to all use-limited resources uniformly.

- The PG&E proposed process to qualify flexibility within a hydro resource shall apply beginning January 1, 2014. However, the Commission, CAISO and interested stakeholders shall commit to using that year to work out a similar protocol for other use-limited resources commencing in 2015.
- More time is required to work out flexibility protocols for Demand Response and other use-limited resources.

Conclusions of Law

- The RA program should be modified with respect to the flexibility attributes to be required of RA-compliant load-serving entities.
- It would be inequitable to impose either a must-offer obligation or compliance penalties during the interim 2014 period adopted herein.
- Whether a must-offer obligation and load-serving entities compliance penalties are appropriate should be reviewed in future RA proceedings.

Ordering Paragraphs

- The following modifications to the resource adequacy requirements adopted by D.04-01-050; D.04-10-035; D.05-10-042 as modified by D.06-02-007, D.06-04-040, and D.06-12-037; D.06-06-064, D.06-07-031; D.07-06-029; D.08-06-031, D.09-06-028 and D.12-06-025 are adopted beginning with the 2014 resource adequacy program compliance year:
 - An interim period RA flexibility mechanism shall be implemented as of January 1, 2014.
 - The Commission, working cooperatively with the CAISO shall provide market participants with (i) 2014 flexible requirements, including how they are allocated to individual LSEs, and (ii) the amount to NQC from existing resources that can meet the flexible requirements.
 - For 2014 there shall be no specific must offer or procurement requirements on suppliers or buyers.
 - 2014 compliance showings will be analyzed to determine whether or not the 2014 procurement actually met the flexible requirements.
 - The PG&E proposal for use-limited hydroelectric resources shall be implemented with the 2014 interim period flexibility program
 - The interim 2014 flexibility mechanism shall be superseded by a stricter program with more specific must offer and LSE purchase obligations in 2015 or later, depending on future actions to be undertaken by the Commission and CAISO.