

**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)

**COMMENTS OF THE MARIN ENERGY AUTHORITY  
ON MAY 28, 2013 PROPOSED DECISION OF ALJ GAMSON  
ADOPTING LOCAL PROCUREMENT OBLIGATIONS FOR 2014,  
A FLEXIBLE CAPACITY FRAMEWORK, AND FURTHER REFINING  
THE RESOURCE ADEQUACY PROGRAM**

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June 17, 2013

## SUBJECT INDEX

1. The Commission should clarify that any new “error term” applicable to flexible capacity procurement is not additive, but rather subsumed within the existing 15% RA procurement obligation.
2. The Commission should ensure that the annual analysis of the quantity of new product to be procured reflects periodic changes in the larger regional market that can mitigate CAISO’s need to manage ramping-related issues solely from resources within CAISO.
3. The Commission should equitably allocate any CAM resources that qualify as flexible capacity resources to the LSEs.
4. The Commission should ensure that CAM resources that are flexible capacity capable are not permitted to “opt out” of providing that product if the costs for the contract have been socialized under the CAM regime.
5. The Commission should specify what resource characteristics will be deemed eligible to provide flexible capacity.
6. The Commission should establish rules that define how much “flexing” a resource must be capable of achieving, either in terms of a range of MWs or the incremental or decremental ramping rate within that range of flexibility in order to qualify to provide flexible capacity.
7. The Commission should evaluate whether there are potential market power concerns with respect to the remarketing of capacity to other LSEs if the rights to a majority of eligible products are held by a small group, such as owners or entities with contracted rights.

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**I. INTRODUCTION**

Pursuant to Article 14 of the Commission’s Rules of Practice and Procedure, the Marin Energy Authority (“MEA”) hereby submits these opening comments on Administrative Law Judge Gamson’s *Proposed Decision Adopting Local Procurement Obligations for 2014, A Flexible Capacity Framework, and Further Refining the Resource Adequacy Program* (“PD”).

**II. BACKGROUND**

MEA is the only operational Community Choice Aggregator (“CCA”) within California, and currently serves customers throughout Marin County and within the City of Richmond. MEA is a not-for-profit public agency founded to reduce greenhouse gas emissions by providing the local communities it serves with the choice to consume electricity with a higher renewable content than the default offering provided by Pacific Gas and Electric (“PG&E”), the incumbent Investor Owned Utility (“IOU”) for MEA’s service territory.

CCAs are solely responsible for all generation procurement activities on behalf of their customers, except where other generation procurement arrangements are expressly authorized by statute.<sup>1</sup> This responsibility includes the procurement of resource adequacy (“RA”) capacity resources on behalf of MEA customers. Thus, the manner in which the flexible capacity requirement is determined and implemented is of great concern to MEA, particularly in light of MEAs pending multi-year RA capacity solicitation.<sup>2</sup>

### **III. COMMENTS REGARDING THE FLEXIBLE CAPACITY FRAMEWORK**

MEA supports the development of policies that will help ensure that the California Independent System Operator (“CAISO”) has at its disposal, through its markets, the types of products and resources it needs to maintain a high level of system reliability that is critical to California’s economy. The PD identifies six activities that are required for full implementation of the flexible capacity requirement.<sup>3</sup> Moving forward, the flexible capacity framework should address, at minimum, the following with respect to each activity.

#### **A. Finalize the Methodology For Determining The Flexibility Requirements.**

The PD provides a formula to calculate the flexible capacity need for a given month that includes an “Annually adjustable error term to account for uncertainties such as load following.”<sup>4</sup> While the PD sets the value of this adder as zero for 2014 and provides that the Commission will determine a cap or method to calculate this factor in the future,<sup>5</sup> little explanation is provided for what this factor really represents, or how this factor will be determined. Current resource

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<sup>1</sup> California Public Utilities Code §366 (a)(5). All further section references herein are to the California Public Utilities Code unless stated otherwise.

<sup>2</sup> These concerns are also outlined in MEA’s April 5, 2013 Comments.

<sup>3</sup> PD, pp. 55-56.

<sup>4</sup> PD, p. 15; PD Appendix A, p. 1.

<sup>5</sup> PD, p. 57; PD, Appendix A, p. 1.

adequacy requirements set a minimum reserve margin of 15% which is intended to cover both system operating reserves as well as a “planning reserve” cushion intended to address other system contingencies and forecasting error. It appears from the PD that this new “annually adjustable error term” could be viewed as an additional “cushion” on top of the existing cushion found within the general RA planning reserve value, but particular to the new flexible capacity product contemplated under the PD. MEA asks that the PD clarify that any new “error term” applicable to flexible capacity procurement is not additive, but rather will be subsumed within the existing 15% RA procurement obligation.

In establishing the need for flexible capacity procurement, the Commission should be sure that ongoing developments in the regional markets are captured. For example, the CAISO and PacifiCorp are looking at the energy imbalance market, which could help move some power between regions on an intra-hour basis and therefore help optimize resource and load diversity. Consideration of the larger regional market is important as the diversification of loads and resources can help accommodate potential swings in the load-generation balance, which should potentially reduce the amount of flexible capacity actually needed to be procured by California load serving entities (“LSE”). However the Commission decides to establish the procurement obligation, the annual analysis of the quantity of the new product to be procured must reflect periodic changes in the larger regional market that can mitigate CAISO’s need to manage ramping-related issues solely from resources within the CAISO.

**B. Finalize Issues Associated with Establishing the Amount of Flexible Capacity That Can Be Provided By RA Eligible Generating Units.**

There are some outstanding questions that the CPUC policy framework will need to address so that market participants can better manage risks regarding both the procurement and the provision of the new flexible capacity product. These issues should be a priority for determination

in the coming phase of the proceeding, but clearly must be determined before buyers and sellers should be expected to transact for this new product.

***1. Assure Equitable Allocation of Flexible Capacity From CAM Resources.***

For example, the PD should explicitly clarify that where LSEs are allocated RA capacity under the Capacity Allocation Mechanism (“CAM”), any CAM resources that qualify as flexible capacity resources should be equitably allocated to the LSEs. This is a critical issue for MEA, because the CAM allocations represent a procurement-related risk that is not easily managed and can conflict with existing plans to solicit and contract for capacity, and because MEA has a relatively smaller fractional allocation of Flexible Capacity from a CAM resource could result in a share that is a fraction of a MW. It may be more equitable, therefore, to manage the allocation of CAM capacity so that smaller LSEs receive a full allotment of Flexible Capacity from a single resource that rounds to a usable volume, rather than a series of unusable fractional MWs from individual resources that—on a stand-alone basis—do not round up to useful whole MWs. This issue is particularly important when the volume of potentially available flexible capacity is a subset of capacity from resources generally. Additionally, the Commission should ensure that CAM resources that are flexible capacity capable are not permitted to “opt out” of providing that product if the costs for the contract have been socialized under the CAM regime.

A related issue concerns whether or how a LSE with a CAM allocation can transfer that allocation to another entity, to the extent such resales would help balance the LSE’s portfolio relative to changes in customer demand.

**2. *Establish Technology-Indifferent Counting Rules For Flexible Capacity.***

The PD notes that “there are a number of other resources which may need specially designed counting rules to participate effectively in a flexible capacity framework.”<sup>6</sup> However, in addition to considering whether specially designed counting rules may be needed, the Commission should specify what resource characteristics will be deemed eligible to provide flexible capacity. To the extent feasible, these counting rules should be technology -indifferent, so that the market can present innovative approaches to satisfy the requirement given the raft of competing energy policy goals at play at the state level. For example, the Commission should specify whether a combined heat and power (“CHP”) facility that could vary electric production levels only with changes in its provision of steam to its host, or a simple cycle combustion turbine with modified inlet cooling technologies, can be eligible to provide flexible capacity. Eligibility specification is particularly important in light of the Commission’s recent CHP procurement and related greenhouse gas goals. To the extent that LSEs like MEA are obligated to meet competing policy goals through their procurement efforts, and are seeking to minimize their carbon profile through greater energy efficiency and demand response programs, the imposition of this new regulatory requirement on its procurement efforts may end up displacing certain no - or low -carbon load management or resource options in favor of contracting for energy and capacity from a fossil - fueled resource.

**3. *Clarify Whether The Flexible Capacity Product Definition Only Includes Ramping Parameters Within The Operating Range.***

The PD adopts a 3-hour run rule for a resource’s eligibility to provide flexible capacity, but it is not clear whether there are any additional parameters on a resource’s flexibility capabilities

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<sup>6</sup> PD, p. 47.



that would impact eligibility to provide the service.<sup>7</sup> For example, must a generating resource have some minimal ramp rate within its potential operating range (i.e., its  $P_{\min}$  value and the NQC) in order to qualify? What, if any, impact do ambient derates have on the product to the extent not already captured in a monthly NQC value? Stated differently, are there any corollary rules about how much “flexing” the resource must be capable of achieving, either in terms of a range of MWs or the incremental or decremental ramping rate within that range of flexibility, in order to qualify to provide this product?

For instance, a longer starting time combined cycle unit may have a relatively long ramping curve during start-up or shut-down (that seems to be excluded from the flexible capacity product) but may have a somewhat narrow ability to move its operating point between  $P_{\min}$  and NQC after it has reached full load. Will the start-up and shutdown ramps be recognized in the determination of total quantity of flexible capacity CAISO will require from the system, or is that ramping capability excluded from the CAISO work in determining the total annual quantity that must be procured and also excluded from counting toward satisfying a LSE’s flexible capacity procurement obligation?

#### ***4. Potential Market Power and Scarcity Issues Should Be Anticipated and Reflected in Compliance Rules***

MEA has concerns that there may be scarcity in product availability, particularly if resource owners can opt out of providing the product. Similarly, if the rights to a majority of eligible products are held by a small group (either as owners or entities with contracted rights), there may be potential market power concerns with respect to the remarketing of the capacity to other LSEs. MEA urges the Commission to be cognizant of issues when designing the

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<sup>7</sup> It is also not apparent from the PD whether the CPUC will establish policies regarding the details of eligibility, or if those technical details instead be determined in the parallel CAISO stakeholder processes.

procurement obligation and incorporating flexible capacity procurement compliance rules, including the waiver request mechanism.

Moreover, with respect to MEA's general procurement planning efforts, there needs to be a mechanism whereby an LSE can "opt out" of forced participation in a share of flexible capacity CAM allocations if they are on a path to procure their needs within the same planning horizon. Stated differently, if MEA is undertaking solicitations for energy and capacity from resources that may provide flexible capacity, it should be able to avoid having surplus flexible capacity allocated to it under the CAM process. Otherwise MEA's efforts to construct a sound procurement portfolio to service its long-term customer commitments could be undermined by collateral imposition of resources through processes outside of its control.

**5. *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.***

The establishment of a clear administrative process to address compliance with the flexible capacity requirement is essential. Such process should parallel the resource adequacy compliance processes already in place, and make clear that an LSE's compliance with flexible capacity requirements is relative to procurement and filing obligations only. An LSE's compliance with flexible capacity requirements should not hinge on the performance of a third party, the generator, as the generators have a performance obligation directly to the CAISO. Moreover, given issues that arose at the start of the 2013 RA compliance program when separate submissions were due to the CPUC and the CAISO (particularly with respect to the filing deadlines and validation processes at CAISO), enforcement actions should be initiated only after a finding of non-compliance by the CAISO. Finally, to the extent possible, Commission and CAISO reporting structures (forms and timelines) should be unified to reduce administrative burdens on LSEs.

#### IV. CONCLUSION

MEA appreciates this opportunity to present its comments on the PD. MEA supports policies that help the CAISO have at its disposal, through its energy and ancillary services markets, the types of energy, capacity and ancillary services products and resources it needs to maintain a high level of system reliability that is critical to California's economy. For this reason MEA supports the general framework adopted in the PD since it addresses CAISO needs associated with retirement of old resources and the integration of higher levels of newer and cleaner technologies. At the same time, there are significant, critical details that must be resolved well in advance of implementing the flexible RA capacity obligation. MEA urges the Commission to add clarity as discussed in these comments to the "next steps" necessary to build out the framework adopted in the PD.

Respectfully submitted,

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June 17, 2013

## APPENDIX A

### PROPOSED MODIFICATIONS

#### FINDINGS OF FACT:

17. The Joint Parties' Proposal provides a ~~fully~~ detailed flexible capacity framework.

#### CONCLUSIONS OF LAW:

9. It is reasonable to adopt an interim flexible capacity framework ~~at this time~~, which will lead to a flexible capacity requirement in the 2015 RA year. Specific flexible capacity requirements for each LSE for RA year 2015 should be determined through the RA proceeding in this docket or its successor in 2014.

11. Flexible capacity should be defined, on an interim basis, as the quantity of flexible capacity identified needed by the ISO to meet ramping and contingency reserves. The flexible capacity need for a given month should be calculated by the following formula:

$$\text{NeedMTHy} = \text{Max} [(3\text{RRHRx})\text{MTHy}] + \text{Max}(\text{MSSC}, 3.5\% * \text{E}(\text{PLMTHy})) + \varepsilon$$

In this formula:

Max[(3RRHRx)MTHy] = Largest three hour continuous ramp starting in hour x for month y

E(PLMTHy) = Expected peak load in month y

MSSC = Most Severe Single Contingency

Max(MSSC, 3.5%\*E(PLMTHy)) is the Maximum of MSSC or 3.5%\* E(PLMTHy)

$\varepsilon$  = Annually adjustable error term to account for uncertainties such as load following. *The error term applicable to flexible capacity procurement is not additive, but rather subsumed within the existing RA procurement obligation.*

12. Any costs resulting from the Cost Allocation Mechanism (CAM) that qualify as flexible capacity resources shall be equitably allocated to all LSEs.

~~12-13.~~ Flexible capacity procurement obligations should be established for all Commission jurisdictional load serving entities for 2015. The flexible capacity procurement obligations should be determined based on the Joint Parties' Proposal and the revised Energy Division proposal, as modified and outlined in Appendix A.

~~13-14.~~ The Joint Parties' Proposal should be used as a starting point, along with PG&E's proposal for counting of hydro resources, for a flexible capacity framework.

~~14-15.~~ The use limitations of different resources may affect how or whether such resources can qualify as flexible capacity.

*16. The Commission shall specify what resource characteristics will be deemed eligible to provide flexible capacity.*

*17. The Commission shall establish rules that define how much “flexing” a resource must be capable of achieving, either in terms of a range of MWs or the incremental or decremental ramping rate within that range of flexibility in order to qualify to provide flexible capacity.*

~~15-18.~~ The Commission should use 2014 to gather data about LSEs’ flexible resources (owned or under contract).

*19. The Commission shall evaluate whether there are potential market power concerns with respect to the remarketing of capacity to other LSEs if the rights to a majority of eligible products are held by a small group, such as owners or entities with contracted rights*

~~16-20.~~ The Commission should use the time between now and June 2014 to refine a flexible capacity framework for mandatory implementation in RA year 2015.

~~17-21.~~ The adopted flexible capacity requirement starting in 2015 should be interim through 2017 in order to determine the efficacy of the framework and consider additional flexibility requirements.

~~18-22.~~ The Commission should return to the previous rounding convention (including the blanket exemption for LSEs that are allocated Local RA obligations under 1 MW per Local Area) that was adopted in D.06-06-064 and was in effect for the 2012 compliance year (i.e., before D.12-06-025).

~~19-23.~~ Energy Division’s proposal that LSEs should be able to count resources under construction toward meeting their year ahead local RA obligations without specifically naming the replacement capacity in the year ahead filing, but could specify the replacement capacity for the resource under construction in the month-ahead RA filings, is reasonable and should be adopted.

#### **ORDERING PARAGRAPH:**

6. Each Load Serving Entity (LSE), as defined by Public Utilities Code Section 380(j), shall make a year ahead and month -ahead showing of flexible capacity for each month of the compliance year. Each LSE shall report all its qualified flexible resources in its required annual and monthly Resource Adequacy filings. *In the annual Resource Adequacy filing, the quantity of new product to be procured shall reflect periodic changes in the larger regional market that can mitigate CAISO’s need to manage ramping-related issues solely from resources within CAISO.*