

**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
Load Procurement Obligations

Rulemaking 11-10-023
(Filed October 20, 2011)

**COMMENTS OF
THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION ON THE
MAY 28, 2013 ADMINISTRATIVE LAW JUDGE'S PROPOSED DECISION**

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June 17, 2013

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These comments on the Proposed Decision (PD) of Administrative Law Judge (ALJ) David Gamson are submitted pursuant to Rule 14.3 of the California Public Utilities Commission's Rules of Practice and Procedure.

I. INTRODUCTION

The California Large Energy Consumers Association (CLECA) strongly supports the PD's finding that there is no flexible capacity need for 2014 and briefly comments below on the PD's other determinations. The PD should be expeditiously adopted.

II. COMMENTS

A. 2014 Local Capacity Requirement

The PD sets the 2014 Local Capacity Requirements and rightly concludes that there is no need for a requirement for procurement of flexible capacity for the 2014 Resource Adequacy (RA) compliance year. The PD finds that it would

“increase ratepayer costs without clear benefit.”¹ CLECA and many other parties recommended that there be no such requirement for 2014 for numerous reasons, including the recognized unwarranted increase in costs. The PD’s adoption of the California Independent System Operator’s (ISO’s) “no SONGS” scenario was clearly prescient.² Since the PD was issued, Southern California Edison (SCE) has decided to close the plant, making any debate over the choice of a scenario moot. CLECA supports this aspect of the PD and it should be adopted.

B. Flexible Capacity Framework

The PD adopts a policy framework for the inclusion of flexible capacity requirements into Resource Adequacy for future compliance years.³ The PD also defines flexible capacity “as the quantity ... identified needed by the ISO to meet ramping and contingency reserves” and sets a formula to calculate flexible capacity need.⁴ The policy framework will be fleshed out with workshops and comments and appropriately prioritizes use-limited resource issues. Thus no change is sought to the PD’s policy framework.

CLECA does, however, maintain its concerns regarding both the lack of recognition of an ability to change the overall load shape in the net load analysis and a general lack of transparency for ISO analysis. These concerns, along with CLECA’s concerns over cost considerations, will be raised in the workshop process with the expectation that they will be addressed.

¹ PD, at 40.
² PD, at 7-8.
³ PD, at 35, 44.
⁴ PD, at 66.

1. Workshops Should Focus on Use-Limited Resources

The PD directs that workshops on this framework be held in the not-too-distant future. A key requirement of these workshops should be to address how use-limited resources, including demand response (DR), may be structured and deployed to provide flexibility. The PD correctly sets this issue as a priority for resolution for the June 2014 RA decision.⁵ There are likely better approaches to the definition of flexibility for use-limited resources than those included in the Joint Parties' and Energy Division proposals; this potential should be explored further in the workshops.

Notably, the flexibility definition in the Joint Parties' and Energy Division proposals, with its three-hour ramping requirement, may be difficult to adapt for use-limited resources like DR and storage. If a use-limited resource can provide a shaped product which ramps itself, for example, there may be no need to subject it to a requirement for being bid into the 5-minute wholesale markets with its dispatch requirements. The PD is right to set development of flexibility criteria for use-limited resources as a high priority, along with the development of counting rules, criteria, and must-offer obligations.

2. Net Load Analysis Should Consider Dynamic Load Shapes

Further, the future analysis of "net load" should take into account the ability of overall load to be shifted in response to changes in rate design, such as changing the on-peak period to reflect a later system coincident peak. The

⁵ PD, at 48.

current analysis assumes that customer load (before adjustments for intermittent renewable resources that result in a “net load”) will continue to have a shape consistent with the past. Evidence in other proceedings shows that customer loads respond to price signals, such as time-of-use rates;⁶ customer load is not in fact inflexible, and its ability to be shaped should be taken into account.

3. Flexible Capacity Data Should Be Included in RA Filings

The PD also appropriately states that compliance obligations, enforcement, and penalties for non-compliance will be an important matter for the upcoming workshops.⁷ Its direction that the amount of flexible capacity in each load serving entity’s (LSE’s) RA resources be reported will result in useful information.

4. ISO Analyses for 2015 Flexible Capacity Procurement Must Be Transparent, with Explicit Justification for Changes

The record in this proceeding does not demonstrate “a reasonable likelihood” that there will be a need for additional flexible capacity in 2015.⁸ The ISO’s assumptions in the presentations at the workshops in this proceeding changed over time and were not transparent. Changes in assumptions may be appropriate; however, the assumptions must be explicit, transparent, and any changes should be fully explained to the parties along with the underlying rationale for the change. More care is required to assure that parties can understand and vet the ISO’s analysis in the future. The use of a deterministic

⁶ See, e.g., Residential Rate Design Proposals filed in R.12-06-013; see also, CLECA Comments in Response to ALJ Ruling, dated April 5, 2013, at 4-5.

⁷ PD, at 56, 67, 69.

⁸ PD at 3.

approach to the assessment of flexibility need has limitations that should be addressed. These matters can and should be addressed in the upcoming workshops.

5. Cost Considerations

Lastly, the discussion of the tradeoff between cost and reliability in the PD suggests that a much higher priority be given to reliability.⁹ The impacts of energy policy decisions, like this trade-off, should be considered carefully. The reliability standards used by the ISO for local reliability are quite conservative, as demonstrated in recent hearings in R.12-03-014. Moreover, the costs of flexible capacity are not known. The PD notes, “we seek to impose the least costly structure to ensure reliability.”¹⁰ The Commission should re-evaluate this trade-off and the level of reliability customers are getting for their payments, rather than assume “ratepayers will receive commensurate benefits for the costs associated with the flexible capacity framework.”¹¹ This re-evaluation should be undertaken once costs and need are known.

III. CONCLUSION

CLECA recommends expeditious adoption of the PD. It comes to the right conclusion for the 2014 LCR determination, that there is no need for flexible capacity procurement now. Further, as noted above, the PD rightly finds that the workshops should focus first on resolving issues of use-limited resources, such as

⁹ PD, at 43 (“The costs of an unreliable electrical system are incalculable, in the sense of damage to the economy.”)

¹⁰ PD, at 43.

¹¹ PD, at 43.

DR, with the interim flexible capacity definition and framework. The workshops should also consider changes to the net load analysis; this analysis should be refined to address the fact that the load shape is not static. Moreover, the Commission and staff should seek to ensure that all analyses being relied upon are fully transparent and understood by all parties, particularly ISO analyses. Finally, the balance between reliability and cost should be re-evaluated in the workshops.

Respectfully submitted,

/s/ _____

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