

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 DIVISION OF RATEPAYER ADVOCATES  
ON PROPOSED DECISION ADOPTING LOCAL PROCUREMENT  
OBLIGATIONS FOR 2014, A FLEXIBLE CAPACITY FRAMEWORK,  
AND FURTHER REFINING THE RESOURCE ADEQUACY PROGRAM**

**PETER H. SPENCER**  
**ALAN WECKER**  
Analysts for the Division of Ratepayer  
Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-2109  
E-mail: phs@cpuc.ca.gov

**MATT MILEY**  
Attorney for the Division of Ratepayer  
Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-3066  
E-mail: mm2@cpuc.ca.gov

June 17, 2013

**TABLE OF CONTENTS**

	<u>Page</u>
I. DISCUSSION.....	2
A. The Commission Should Not Adopt Flexible Capacity Procurement Obligations Before the CAISO Implements An Approved Tariff for An Enhanced Must Offer Obligation (MOO) .....	2
B. It is More Accurate to Characterize the New Flexible Capacity Framework as an Ongoing Evolution in the RA Program, Rather Than Labeling it Interim .....	3
II. DRA RECOMMENDATIONS.....	4
ATTACHMENT A - DRA Proposed Modifications to the PD	
ATTACHMENT B - DRA Proposed Modifications to the PD’s Findings of Fact, Conclusions of Law, and Ordering Paragraphs	
ATTACHMENT C – DRA Proposed Modifications to PD Appendix A	
Certificate of Service	

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 DIVISION OF RATEPAYER ADVOCATES  
ON PROPOSED DECISION ADOPTING LOCAL PROCUREMENT  
OBLIGATIONS FOR 2014, A FLEXIBLE CAPACITY FRAMEWORK,  
AND FURTHER REFINING THE RESOURCE ADEQUACY PROGRAM**

Pursuant to Administrative Law Judge's Proposed Decision (PD) issued on May 28, 2013, the Division of Ratepayer Advocates (DRA) submits these comments on issues discussed in the PD.

Overall, DRA supports the PD. DRA concurs with the PD's adoption of a framework for flexible capacity,<sup>1</sup> which is an important step in the resource adequacy (RA) program to address future reliability concerns. In addition, the PD appropriately requires load-serving entities (LSEs) to make a flexibility showing in their 2014 RA filings<sup>2</sup> as part of a process to gather and analyze data moving toward flexible capacity LSE obligations in future RA cycles. DRA also supports ongoing workshops to finalize details as called for in the PD.<sup>3</sup>

---

<sup>1</sup> PD, p. 54

<sup>2</sup> PD, p. 56

<sup>3</sup> PD, p. 57

As detailed below and in the attachments to these comments, DRA recommends several modifications to the PD. First, the PD should be clarified to state that an enhanced Must Offer Obligation (MOO)<sup>4</sup> should first be implemented by the California Independent System Operator (CAISO) before the Commission adopts mandatory flexible capacity obligation for LSEs. In addition, it would be more accurate to characterize the new flexible capacity framework as an ongoing evolution in the RA program, rather than labeling it as interim.

## **I. DISCUSSION**

### **A. The Commission Should Not Adopt Flexible Capacity Procurement Obligations Before the CAISO Implements An Approved Tariff for An Enhanced Must Offer Obligation (MOO).**

The Commission should not adopt flexible capacity procurement obligations prior to the implementation of an approved tariff by the CAISO for an enhanced MOO for flexible capacity. The enhanced MOO is part of the foundation needed to ensure the flexible capacity is available when needed, yet it is unclear when it will be implemented. Accordingly, it is premature to state that flexible capacity procurement obligations “will go into effect in 2015.”<sup>5</sup> An enhanced MOO CAISO tariff must be in place by the spring of 2014 to meet the timeline for the next RA cycle. The PD should be modified to clarify that flexible capacity obligations may go into effect in 2015, provided that the CAISO implements an approved tariff for its enhanced MOO by early spring 2014. That time

---

<sup>4</sup> The ongoing CAISO stakeholder process “Flexible Resource Capacity Criteria and Must Offer Obligation” is considering an enhanced flexible capacity MOO designed to assure dispatchability by the CAISO and focuses on limiting self-scheduling by resources. As indicated below, in order to maintain reliability as intermittency on the grid increases due to the addition of more renewable resources and the closure of Once-Through Cooling plants, the CAISO will need capacity which is both dispatchable and available when needed. The enhanced MOO provides the dispatchability and availability needs by requiring flexible resources to place economic bids during specific hours each day.

<sup>5</sup> PD, p. 3.

frame should allow the Commission sufficient time to incorporate the enhanced MOO in its RA decision in June 2014, for the 2015 compliance year.<sup>6</sup>

An enhanced MOO plays a critical role in the flexible capacity framework. To maintain reliability as intermittency on the grid increases due to the addition of more renewable resources and the closure of Once-Through Cooling plants, the CAISO will need capacity which is both dispatchable and available when needed. The enhanced MOO provides the dispatchability and availability needs by requiring flexible resources to place economic bids during specific hours each day. Without implementation of the enhanced MOO, daily economic bidding will not be required and the necessary flexible attributes will not be provided. In this situation, the ratepayers will be burdened with increased costs for flexible capacity without commensurate benefits. Ratepayers should not pay flexible capacity costs that do not provide increased reliability benefits.

The PD should therefore be modified to clarify that flexible procurement obligations may go into effect in 2015 provided that the CAISO implements an approved tariff for its enhanced MOO by early spring 2014, leaving the Commission sufficient time to incorporate the enhanced MOO in its RA decision in June 2014, for the 2015 compliance year. Accordingly, DRA provides a list of the references to mandatory 2015 flexible obligations in the PD, and recommended modifications, in the attachments to these comments.

**B. It is More Accurate to Characterize the New Flexible Capacity Framework as an Ongoing Evolution in the RA Program, Rather Than Labeling it Interim.**

It is unnecessary to characterize the new flexible capacity policy as “interim” or attach a defined time frame to the policy when the entire RA program is open to annual modification. The annual nature of the RA program allows for stakeholders and the Commission to modify or eliminate policies as necessary. The PD states that the flexible capacity requirement will be revisited for 2018 when in fact it can, and likely will be,

---

<sup>6</sup> Additionally, PD p. 64, Findings of Fact 20 notes that “[t]here are a number of details remaining to be determined to fully implement . . . a mandatory flexible capacity framework starting in RA year 2015, including counting of use limited resources and preferred resources.”

revisited each year. The record in this proceeding does not support an interim status or a date certain when a RA flexible capacity policy will not be needed. No party offered any support or rationale for an interim timeframe for flexible capacity. In fact, the CAISO data indicates a significant increase in flexible capacity needs in 2017 and 2018.<sup>7</sup>

Similarly, the PD inappropriately notes that future alternative market mechanisms, if adopted, could affect a flexible capacity framework.<sup>8</sup> This PD language fails to recognize that the entire RA program could be significantly altered under alternative market mechanisms. The scope of this RA proceeding and the record evidence did not include alternative market mechanisms and it is not necessary for this PD to address potential changes in market mechanisms.

DRA provides a list of PD references to an “interim” framework with proposed PD language modifications in the attachments to these comments.

## **II. DRA RECOMMENDATIONS**

In summary, DRA’s recommends:

- (1) Flexible capacity obligations should not be adopted prior to the implementation of a CAISO enhanced must offer obligation (MOO) for flexible capacity; and
- (2) The PD characterize the new flexible capacity framework as an evolution in the RA program, rather than an interim step that ends at a date certain.

///

///

///

---

<sup>7</sup> California Independent System Operator Corporation Initial Comments on Workshop Issues, April 8, 2013, pp. 26-27.

<sup>8</sup> PD, pp. 53-54.

Respectfully submitted,

/s/ MATT MILEY

---

MATT MILEY  
Staff Counsel

Attorney for the Division of  
Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-3066  
Fax : (415) 703-4592  
Email: [mm2@cpuc.ca.gov](mailto:mm2@cpuc.ca.gov)

# **ATTACHMENT A**

## **DRA Proposed Modifications to the PD**

DRA proposes the following modifications to the PD, which are organized with headings that mirror the headings of DRA's above comments.

**Flexible Capacity Obligations Should Not Be Adopted Until After the CAISO Implements An Approved Tariff for An Enhanced Must Offer Obligation.**

The second complete paragraph on page 3 of the PD should be modified to read as follows:

...we impose reporting requirements over the next year in advance of ~~2015~~ implementation of a flexible capacity requirement. Among other things, we require Local Serving Entities (LSEs) to submit updated 2014 RA filings that provide information on the available flexible capacity in each LSE's portfolio as a basis for determining ~~2015~~future flexible capacity requirements. In the upcoming year, there will be workshops and further proceedings to refine the flexible capacity requirements and an enhanced MOO to go into effect in 2015. The inquiry will consider how to best provide so a wide range of use-limited, preferred, and other resources can qualify to meet flexible capacity needs.

The first sentence of the second paragraph on page 44 of the PD should be modified to read as follows:

In general, we will adopt a flexible capacity framework based on the Joint Parties Proposal, as modified below, to start in 2015 provided that the CAISO first implements an approved tariff for ~~with~~ an enhanced MOO.

The first two sentences of the last complete paragraph on page 44 of the PD should be modified to read as follows:

In order to provide a flexible capacity framework to be implemented starting in the 2015 RA year, we use the Joint Parties' Proposal as a starting point, with modifications. We have already discussed the change in implementation date for a mandatory program to 2015 provided that the CAISO first implements an approved tariff for an enhanced MOO.

**The PD Should Not Characterize the New Flexible Capacity Framework as Interim, But Rather As An Evolution in the RA Program.**

The first sentence of the second paragraph on page 2 of the PD should be modified to read as follows:

In this decision, we also adopt an ~~interim~~ “flexible capacity” framework as an additional component of local capacity requirements.

The last sentence of first complete paragraph on page 3 of the PD should be deleted as follows:

~~We will also revisit this flexible capacity requirement for 2018 and beyond.~~

The first sentence of the second paragraph on page 3 of the PD should be modified to read as follows:

To help determine flexible capacity need in ~~2015 through 2017~~ future years,...

The first sentence of the first paragraph on page 44 of the PD should be modified to read as follows:

In order to address the likely flexible capacity need for 2015 and beyond, we will adopt an ~~interim~~ flexible capacity framework at this time.

The PD sentence that begins on the bottom of page 53 and continues on page 54 should be modified to read as follows:

Today’s decision adopts an ~~interim~~ flexible capacity framework,

The first complete paragraph on page 54 of the PD should be modified to read as follows:

At this time, we adopt an overall ~~interim~~ framework consistent with the outline of both the Joint Parties’ Proposal and the Energy Division proposals, with specific modifications as discussed herein. The adopted framework is a reasonable ~~interim~~ framework to ensure that overall reliability needs can be met effectively, given ongoing changes in the overall resource mix.

# **ATTACHMENT B**

## **DRA Proposed Modifications to the PD's Findings of Fact, Conclusions of Law, and Ordering Paragraphs**

DRA proposes the following modifications to the PD's Findings of Fact, Conclusions of Law, and Ordering Paragraphs:

### **Findings of Fact**

20. There are a number of details remaining to be determined to fully implement the Joint Parties' Proposal, as appropriately modified, for a mandatory flexible capacity framework starting in RA year 2015, including an approved CAISO tariff for an enhanced MOO, counting of use limited resource and preferred resources.

### **Conclusions of Law**

8. It ~~is~~ may be reasonable to cause increased ratepayer costs by imposing a flexible capacity requirement after an enhanced MOO is established ~~starting in 2015~~ because there will be commensurate or greater benefits from improved reliability, once there is a demonstrated need for flexible capacity.

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 provided that an approved CAISO tariff for with an enhanced MOO is first established. 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.

10. The Joint Parties' Proposal should be adopted as the ~~interim~~ flexible capacity framework, with certain necessary modifications, and with further refinements to be determined by June 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 :...

12. Flexible capacity procurement obligations should be established for all Commission-jurisdictional load serving entities for 2015 if an approved CAISO tariff for an enhanced MOO is already in place. 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.

16. 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. 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.~~

### **Ordering Paragraphs**

5. The Resource Adequacy (RA) program is modified by adoption of a flexible capacity framework as shown in Appendix A for all Load Serving Entities, as defined by Public Utilities Code Section 380(j). The flexible capacity framework will be mandatory starting with RA compliance year 2015 if an approved CAISO tariff for enhanced MOO is already in place. ~~The adopted framework shall be in effect through RA compliance year 2017.~~ until the Commission makes further refinements to the framework in future RA cycles.

# **ATTACHMENT C**

## **DRA Proposed Modifications to PD Appendix A**

DRA proposes the following modifications to the PD's Appendix A:

In Section A of Appendix A, the second bullet should be modified to read as follows:

- In 2014 the calculated flexibility need will be a non-binding flexible capacity procurement target for CPUC jurisdictional LSEs. LSEs shall make necessary procurement arrangements for ~~the 2015~~future compliance years when there will be a binding flexible capacity procurement amount.