

**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)

**DISTRIBUTED ENERGY CONSUMER ADVOCATES
COMMENTS ON THE PROPOSED DECISION**

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**DISTRIBUTED ENERGY CONSUMER ADVOCATES
COMMENTS ON THE PROPOSED DECISION**

Distributed Energy Consumer Advocates (“DECA”) hereby provides comments on the May 28, 2013 PROPOSED DECISION ADOPTING LOCAL PROCUREMENT OBLIGATIONS FOR 2014, A FLEXIBLE CAPACITY FRAMEWORK AND FURTHER REFINING THE RESOURCE ADEQUACY PROGRAM (“PD”) in R.1110023, the above captioned proceeding. DECA has participated actively in the preceding at the California Public Utilities Commission (“CPUC”), including formulating and proposing an alternative to the Energy Division staff and Joint Parties’ proposal and appreciates the opportunity to provide comments here and comments herein on the proposals as addressed in the PD.

I. Introduction

DECA acknowledges that a great many complicated and interrelated issues are involved in the matter of Resource Adequacy (“RA”). Unfortunately, the minutia of implementation practices for RA related issues are perhaps the most likely of all CPUC decisions to significantly affect markets in unintended ways. DECA emphasized this concern in its presentation at the March 20, 2013 workshop with particular emphasis on the potential effects on procurement and program administration of decisions that might exclude certain kinds of resources. While it does please DECA that some of these issues are acknowledged in the PD, there remains significant concern over the interim definition of “flexible capacity” and related findings of the PD. In particular DECA asserts that the PD errs by assuming the Commission can implement flexible capacity value for intermittent resources. It cannot, at least not once it has deferred to the CAISO’s Must Offer Requirement for flexible capacity resources.

That point aside, DECA believes that an interim strategy for flexible capacity may be necessary and the PD's proposed 2015-2017 window for this interim product may prove appropriate for addressing some of the more complicated issues related to long term, integrated solutions to ramp needs. But while some hope is afforded by their interim nature and the fact that the PD proposes to address in particular the ability of intermittent resources in subsequent proceedings, much harm may result as a result of the essentially ignored 17 hour energy must offer obligation and the unjustified three hour ramp elements of any flexible capacity requirement. In particular DECA is concerned that the must offer obligation is outside of CPUC jurisdiction and precludes all cost effective storage solutions and any renewable resource's ability to mitigate ramp need or provide flexible capacity. Additionally the three hour system need and the three hour ramp requirement on resources may not be in the best interests of California ratepayers.

Admittedly, all of this minutia of course occurs in the midst of an annual obligation to authorize procurement levels, which is a complicated enough task. DECA does not comment herein on the authorized procurement targets except to say that the PD was correct to assume no capacity from the San Onofre Nuclear Generation Station and that decision will reduce the revisions to the PD necessary in light of Southern California Edison's decision to decommission the plant, announced after the release of the PD.

II. DECA's Comments

- A. The PD errs in assuming the Commission has authority to assign flexible capacity value to intermittent resources once it defers to the CAISO's jurisdiction on the Must Offer Obligation.

The PD errs by ignoring the effects of the CAISO's proposed Flexibility Must Offer Requirement for use limited resources.¹ While the PD references the fact that the CAISO is proposing in its own jurisdiction that resources only be allowed to qualify for providing flexible capacity if they are required to make energy offers for all hours between 05:00 and 22:00, it fails to carry the logical outcome of this obligation into its reasoning for the actions it is undertaking for decisions in 2015 and beyond. In particular this requirement, when coupled with the PD's proposed adoption of the Joint Parties' proposal, removes from the Commission's jurisdiction the ability to assign flexibility attributes to resources that are not capable of delivering energy for 17 hours every day. The PD suggests it is merely obligating resources to "sustain or increase output during the hours of the ramping period of "flexible need"". ² In reality the implied three hour requirement is in practice 17 hours.³

While such issues could be superseded by a 2018 replacement of the interim flexible capacity requirement by a more comprehensive solution like DECA's Full CREDIT proposal, it does not appear possible for that to occur within the program as proposed by the PD.⁴

DECA strongly urges the CPUC to make explicit that the PD's silence on this issue is not deference to FERC jurisdiction, or alternatively that any deference to the CAISO's Must Offer Obligation for flexible capacity resources is only during the interim basis and that the Commission will for the 2018 compliance year implement a comprehensive flexible capacity program that preserves full state jurisdiction regarding what resources are allowed to "count" for flexible capacity.

¹ See <http://www.caiso.com/Documents/RevisedStrawProposal-FlexibleResourceAdequacyCriteria-MustOfferObligations.pdf> the CAISO's Revised Straw Proposal on Flexible Resource Adequacy Criteria Must Offer Obligation, June 13, 2013, pp.17-22.

² Proposed Decision at pp.2-3

³ This obligation is referenced in the PD, see p. 16, but there is no acknowledgement of the implications for use-limited resources.

⁴ The Full CREDIT proposal does not rely solely on the CAISO to make determinations of must offer energy obligations for qualification to provide flexibility.

B. The need for additional flexible resources needs clarification.

As written the PD could be interpreted to mean that resources that do not currently exist will be needed for their contribution to a flexibility need.⁵ DECA assumes from the context and scope of this proceeding that the reference to “additional flexible resources” on page 42 of the PD is instead referencing flexibility that is not currently permitted to qualify for providing flexibility or otherwise excluded from the Joint Parties’ proposal as opposed new steel in the ground. DECA recommends changing the language to make this distinction more clear.

The CPUC should not in this proceeding, and especially in light of the refusal to hold hearings, make a determination that any additional resources are necessary for providing flexible capacity. There is simply no record upon which to base such a statement.

C. The PD fails to address the role of Maximum Cumulative Capacity buckets as a tool for CPUC jurisdiction regarding flexible capacity availability and the appropriateness of additional development of DECA’s Full CREDIT proposal.

Based on the fact that no discussion of the Maximum Cumulative Capacity (“MCC”) bucket portion of the Full CREDIT proposal occurs in the PD, it appears that the CPUC is rejecting the use of MCC buckets for making flexible capacity availability determinations *sub silentio*. DECA undertook considerable effort to develop and present its Full CREDIT proposal based on MCC buckets, especially given the short notice of the significant changes to the Energy Division’s staff proposal which unexpectedly abandoned the MCC bucket framework. Unfortunately it was apparently not considered a full proposal and was afforded equal footing

⁵ “In 2015 we find there is a reasonable likelihood that additional flexible resources will be needed.” (PD at p. 42)

with the Joint Parties' proposal or the Energy Division staff proposal.⁶ As a result of this “soft rejection” it is not clear if utilizing MCC buckets for flexible capacity counting purposes is compatible with the interim Joint Parties-based approach as the CPUC envisions it.

DECA strongly recommends that the Commission make explicit that the MCC bucket-based solutions not be precluded from consideration in the 2018 compliance year if not sooner. Failure to do so may result in the lack of administrative mechanism to bypass the CAISO's refusal to reflect the true flexible capacity of resources it has deemed insufficiently fossil generation like.

III. Conclusion

For the above reasons DECA strongly encourages the Commission to revise the PD to reflect a broader analysis of the state's flexibility needs ahead. Doing so requires the removal of the Joint Parties proposal as the assumed foundation for renewables integration and a clean slate for analysis in the subsequent RA proceedings. In particular failure to embrace now the role of curtailment and other issues that are untied to generation resources will set back state's environmental goals, potentially to pre-RPS levels, wasting billions of ratepayer dollars in the process. DECA continues to encourage the consideration of all of the proposals in this proceeding, including the Full CREDIT proposal in a 2015 compliance year RA proceeding or a longer, non-interim RA proceeding, to be opened immediately.

⁶ See PD p. 14 “There are two full proposals in the record to address the changing flexible attribute needs for local reliability”.

