

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 ENERNOC, INC., ON PROPOSED DECISION ADOPTING
2014 LOCAL PROCUREMENT OBLIGATIONS, FLEXIBLE CAPACITY
FRAMEWORK, AND RA PROGRAM REFINEMENTS**

June 17, 2013

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EnerNOC, Inc. (EnerNOC) respectfully submits these Comments on the Proposed Decision of Administrative Law Judge (ALJ) Gamson Adopting Local Procurement Obligations for 2014, a Flexible Capacity Framework, and Further Refining the Resource Adequacy (RA) Program (“Proposed Decision”). The Proposed Decision was issued in R.11-10-023 on May 28, 2013. These Comments are timely filed and served pursuant to Article 14 of the Commission’s Rules of Practice and Procedure and the instructions accompanying the Proposed Decision.

I.

**THE PROPOSED DECISION CORRECTLY FINDS THAT NO NEED EXISTS TO
ADOPT A FLEXIBLE CAPACITY REQUIREMENT FOR THE 2014 RA YEAR AND
THAT REFINEMENTS ARE REQUIRED BY 2015 TO ENSURE THAT PREFERRED
RESOURCES CAN QUALIFY TO MEET FLEXIBLE CAPACITY NEEDS.**

EnerNOC has continued its active participation in this proceeding, focused especially on the ongoing consideration of “flexible capacity procurement” proposals and requirements. In particular, EnerNOC agreed with the Commission’s conclusion in Decision (D.) 12-06-025, addressing the 2013 RA Year, that, while “good reasons” may exist “to define ‘flexibility’ for Resource Adequacy purposes and identify the types of flexible resources needed to maintain reliability,” initial proposals to do so were not “sufficiently detailed” or “ready for

implementation” to permit their adoption at that time.¹ In that decision, the Commission, instead, committed at that time to “study flexible capacity proposals further in this proceeding.”²

That “further” study, including Workshops and party comments, ultimately focused on two proposals made by the California Independent System Operator (CAISO) and the Energy Division to address flexible capacity needs with regard to local capacity requirements over the next several years. These proposals included a “Joint Parties’ Proposal,” offered by the California Independent System Operator (CAISO), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E),³ and a Revised Energy Division Proposal, first offered at the Workshop held on January 23, 2013, then revised and distributed with an ALJ’s Ruling issued on March 11, 2013.

EnerNOC filed Comments and Reply Comments on these two proposals on April 1 and April 15, 2013, respectively. Based on its analysis as detailed in those Comments, EnerNOC concluded, like many other parties, that neither of these proposals had established a need for flexible capacity procurement for the 2014 RA Year and significantly neither complied with the Commission’s Loading Order since each excluded preferred resources from meeting this need and, in turn, created an inherent bias in favor of conventional generation resources.⁴

As EnerNOC warned in response to these proposals, the “Commission must be careful not to adopt new resource requirements without a demonstrated need, especially when, to do so, would exclude the ability of Loading Order preferred resources to meet any flexible capacity requirements now and, potentially, in the future”; would impose unreasonable costs on

¹ D.12-06-025, at p. 2.

² Id.

³ The Joint Parties’ Proposal was included in the Phase 2 Scoping Memo issued in this proceeding on December 6, 2012.

⁴ See, e.g., EnerNOC Reply Comments, at pp. 1-3.

ratepayers; and would erect barriers to certain, valuable flexible capacity resources.⁵ EnerNOC, therefore, recommended in its April 2013 comments that the “Commission NOT adopt a flexible capacity [RA] requirement” for 2014 and, instead, focus on gaining additional information on this “need” and tailoring rules appropriate to meeting that need through inclusion of preferred resources as part of the solution.⁶

EnerNOC is pleased that the Proposed Decision correctly recites EnerNOC’s positions on these points and, more significantly, reaches these same conclusions based on the record to date on flexible capacity procurement.⁷ Namely, the Proposed Decision appropriately makes the following key findings:

- (1) “[T]here is no compelling need to adopt a flexible capacity requirement for the 2014 Resource Adequacy (RA) year, as the likely increased ratepayer costs for such a requirement are not justified give that the ISO has not show a likelihood of a shortage of flexible capacity for next year.”⁸

And

- (2) Reporting requirements and other processes must be employed over the next year to “determine flexible capacity need in 2015 through 2017,” including having Load Serving Entities (LSEs) submit updated 2014 RA filings that provide information on the available flexible capacity in each year, conducting workshops and further proceedings to “refine” the 2015 flexible capacity requirement, and inquiring into the “best” way to ensure that “a wide range of use-limited, preferred, and other resources can qualify to meet flexible capacity needs.”⁹

On the first point (1), the Proposed Decision agrees that the CAISO’s presentations that the flexible capacity requirement “need” really stemmed from a “worst-case scenario” about the

⁵ EnerNOC Reply Comments, at p. 2.

⁶ Id.

⁷ Proposed Decision, at p. 25.

⁸ Proposed Decision, at p. 3.

⁹ Id.

limited availability of flexible resources, which was actually restricted to only a few months and could even be “reduced or eliminated by rescheduling the maintenance schedules of flexible resources” or through other adjustments.¹⁰ Further, the Proposed Decision concluded that *no* party provided “countervailing data” demonstrating that there is a need for flexible capacity in 2014 and that the shortcomings of any current proposal, if adopted, would further inject uncertainty and confusion in the market.¹¹ While the Proposed Decision does not commit to whether flexible capacity requirements *will* exist in the future, it does conclude that it is “necessary to take proactive steps now to ensure that system needs are available to ensure safe and reliable service,” finding that “there is a reasonable likelihood that additional flexible resources will be needed,” a determination to be made for 2015 and beyond in “future proceedings.”¹²

With that understanding, and on the second point (2), the Proposed Decision significantly paves the way for those “future proceedings” to ensure that meeting any identified flexible capacity need *will* comply with California’s energy procurement policies. Namely, the Proposed Decision “agree[s] with parties who advocate for a mechanism to allow preferred resources to participate in the flexible capacity framework we approve today.”¹³ The Proposed Decision, therefore, correctly commits to “further discussion about modifying the counting and bidding rules, as necessary and in alignment with operational needs, for use-limited resources such as storage and demand response.”¹⁴

EnerNOC strongly supports these well-reasoned findings and conclusions. EnerNOC does believe, however, that the “framework” that is adopted in the Proposed Decision does

¹⁰ Proposed Decision, at p. 39.

¹¹ Proposed Decision, at pp. 39-40.

¹² Proposed Decision, at p. 42.

¹³ Proposed Decision, at p. 51.

¹⁴ Proposed Decision, at p. 52.

require modification, along with the definition of “flexible need” to be consistent with these findings and Commission energy policies and goals. Those needed modifications are addressed in the following section and reflected in EnerNOC’s Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs that are contained in Appendix A hereto.

II.
**THE PROPOSED DECISION DOES REQUIRE CERTAIN MODIFICATIONS
TO ENSURE THAT ITS GOAL OF INCLUDING PREFERRED RESOURCES
IN FLEXIBLE CAPACITY PROCUREMENT IN 2015 IS MET.**

A. SONGS Closure Should Be Reflected in the Proposed Decision.

On June 7, 2013, after the issuance of the Proposed Decision, Southern California Edison Company (SCE) announced that San Onofre Nuclear Generating Station (SONGS) Units 2 and 3, shut down since January 2012, would be permanently retired.¹⁵ The Proposed Decision should acknowledge this change, especially in reference to the most appropriate CAISO scenario on which to rely in the 2014 RA year. EnerNOC’s recommended modification to Finding of Fact 2 to reflect this change is included in Appendix A hereto.

B. Workshops on Preferred Resource Eligibility Should Commence As Soon As Possible, But No Later Than August 2013.

The Proposed Decision should be modified to order the commencement of workshops to explore preferred resource eligibility for flexible capacity well in advance of a June 2014 RA Decision. The sooner the workshops commence, the longer parties will have to develop flexible capacity requirements for preferred resources. EnerNOC recommends that the Commission specify that the workshops for developing a flexible capacity resource requirement for preferred resources begin this summer and no later than August 2013.

¹⁵ See: <https://www.edison.com/pressroom/pr.asp?id=8143>

C. The Next Phase of this RA Docket Must Be Closely Coordinated with the CAISO Processes Underway.

CAISO has a stakeholder process underway to develop a flexible capacity must-offer obligation. That process must be closely coordinated with any subsequent Commission process resulting from a final order in this proceeding. It would be problematic to have CAISO develop requirements independent of the Commission's processes.

D. The Proposed Decision Should Clarify that Flexible Capacity Requirements Are System, Not Local, Requirements.

Some references in the Proposed Decision seem to confuse whether the Joint Parties' Flexible Capacity Proposal is a system or local proposal. However, it is a system, not a local, proposal. The Proposed Decision should be clarified to eliminate any confusion.

**III.
CONCLUSION**

For the reasons stated above, EnerNOC certainly supports the Proposed Decision's conclusions that no flexible capacity requirement exists for the 2014 RA Year and that preferred resources must be allowed to qualify in meeting any future (2015) RA flexible capacity requirement. However, EnerNOC does believe that the Proposed Decision can and should be modified in a manner that will better achieve the goal of including preferred resources in meeting any flexible capacity needs identified in the future and to avoid prejudging whether the Joint Parties' Proposal, adopted as an "interim" framework, should continue permanently, especially without revision.

To that end, EnerNOC recommends that the Commission modify the Proposed Decision, as follows, consistent with EnerNOC's Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs contained in Appendix A hereto:

1. The Proposed Decision should be modified to reflect the permanent closure of SONGS and identify the RA scenarios that incorporate that change.
2. The Proposed Decision should be modified to commit to the commencement of workshops needed to develop flexible capacity requirements for preferred resources as soon as possible and no later than August 2013.
3. The Proposed Decision should be modified to reflect that the CAISO's processes to develop must-offer requirements have to be closely coordinated with any subsequent phases of this proceeding.
4. The Proposed Decision should be clarified to confirm that the Joint Parties' Flexible Capacity Proposal is a system, not a local, proposal.

Respectfully submitted,

June 17, 2013

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APPENDIX A

PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW, AND PROPOSED ORDERING PARAGRAPHS

EnerNOC recommends that the following modifications be made to the Findings of Fact, Conclusions of Laws, and Ordering Paragraphs of the Adopting Local Procurement Obligations for 2014, a Flexible Capacity Framework, and Further Refining the Resource Adequacy (RA) Program (Proposed Decision). Please note the following:

- A page citation to that Proposed Decision is provided in brackets for each Finding of Fact, Conclusion of Law, and Ordering Paragraph in the Proposed Decision for which a modification is proposed.
- Any proposed additional Ordering Paragraph is not numbered, but is identified as a “ADDED ORDERING PARAGRAPH.”
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.

PROPOSED FINDINGS OF FACT:

2. [62] **Due to the recent announcement that SONGS will be retired,** ~~the~~ “no SONGS” scenario in the ISO 2014 Local Capacity Requirements study is the most conservative plausible scenario and is the most consistent with ensuring reliability.

11. [63] The ISO’s projections for 2015 and beyond show a ~~strong~~ **reasonable** likelihood of need for flexible resources than for 2014, although the exact need cannot be determined at this time.

13. [63] The Joint Parties’ Proposal for a flexible capacity framework would result in only the procurement of the amount of flexible capacity necessary to fill actual flexible capacity needs, as determined by the Commission with input from the ISO **and parties to this docket**.

17. [64] The Joint Parties’ Proposal provides a fully detailed flexible capacity framework, **except as it relates to preferred resources**.

19. [64] **Workshops should commence as soon as possible, and no later than August 2013, to explore the use limitations of different resources to determine ~~may affect~~ how or whether such resources can qualify as flexible capacity.**

PROPOSED CONCLUSIONS OF LAW:

8. [65] It is reasonable to cause increased ratepayer costs by imposing a flexible capacity requirement starting in 2015 because there will be commensurate or greater benefits from improved reliability, once there is a ~~demonstrated~~ **reasonable likelihood of need** for flexible capacity.

16. [67] The Commission should use the time between now and June 2014 to refine a flexible capacity framework for mandatory implementation in RA year 2015 **and to develop flexible capacity requirements for preferred resources. Workshops should commence as soon as possible and no later than August 2013.**

PROPOSED ORDERING PARAGRAPHS:

ADDED ORDERING PARAGRAPH: Workshops to explore the issues identified in this Decision shall commence no later than August 2013.