

**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
(October 20, 2011)

**REPLY COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON THE PROPOSED DECISION
ON RESOURCE ADEQUACY AND FLEXIBLE CAPACITY**

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The Independent Energy Producers Association (IEP) respectfully submits its reply to some of the comments filed on the *Proposed Decision Adopting Local Procurement Obligations for 2014, a Flexible Capacity Framework, and Further Refining the Resource Adequacy Program* (PD), issued on May 28, 2013.

I. THE NATURE OF FLEXIBLE RESOURCE ADEQUACY CAPACITY

In its opening comments on the PD, IEP noted some confusion about statements in the PD that seemed to treat flexible Resource Adequacy (RA) capacity as a variety of local RA capacity. Other parties also commented on this issue and took different positions on whether flexible capacity was more like system RA capacity or local RA capacity.

In one key respect, flexible RA capacity must resemble local RA capacity. The obligation to procure RA capacity must extend to all 12 months of the calendar year, like local RA capacity and unlike system RA capacity, which must be procured and available only during the summer peak demand months. The California Independent System Operator (CAISO) has repeatedly stressed that the need for flexible capacity can arise at any time and is particularly

acute during the months not associated with peak demand. Limiting the flexible RA obligation to only the summer months would not provide the CAISO with the resources it believes it will need to maintain system reliability, particularly during the steep upward ramps in net demand forecasted for late afternoons.

IEP is less concerned about whether the load-serving entities must show 100% or 90% of their flexible capacity requirement as part of their year-ahead showing, provided that the 100% showing is made 45 days in advance of the delivery month.

II. THE FLEXIBLE RA CAPACITY PROGRAM SHOULD BE IMPLEMENTED IN 2015

The Utility Reform Network (TURN) argues that the Commission should reserve judgment on whether the flexible RA capacity program should be implemented in 2015 and maintains that “there is insufficient record evidence that there will be a need for such a requirement in 2015.”¹

IEP disagrees with TURN’s assessment. The Commission should commit now to implement the flexible capacity requirement in 2015. Making this commitment now will (1) provide certainty to potential suppliers of flexible capacity, (2) send a signal to the market to be prepared for implementation of the flexible capacity requirement in 2015, and (3) help ensure that the necessary details for implementation are addressed by no later than mid-2014. If the CAISO determines that no additional flexible capacity needs to be procured in 2015 (one of the outcomes TURN cites to support its argument), that is an acceptable market result but not a reason to put off the implementation of a flexible capacity requirement any further.

¹ TURN’s Opening Comments, p. 2.

III. BUNDLING, UNBUNDLING, AND SELLER'S DISCRETION

The discussion of bundling or unbundling of flexible and generic capacity has become even more confusing in the parties' comments on the PD. In part, the confusion is a product of a collective failure to develop the vocabulary to describe concepts clearly. For example, the statement of Southern California Edison Company (SCE) that "if a generator sells any flexible capacity from its resource, then it must bundle each flexible megawatt ('MW') sold with an equivalent MW of generic capacity and any attributes it comprises, including system, local (if applicable) and flexible,"² could be misunderstood to mean that each MW of flexible capacity must be sold with a second MW of generic capacity. IEP thinks that SCE's position on bundling is expressed more accurately in the sentence in SCE's Opening Comments that "the flexible capability of a MW cannot be stripped off and sold as a separate product."

IEP agrees with the concept that the flexible attributes of a MW of capacity cannot be stripped off and sold separately from that MW and that a MW of capacity may not be sold twice.

IEP is also unclear about the meaning of some parties' comments on the related topic of the obligation to sell flexible capacity. For example, SCE states, "Flexible capacity cannot be sold as generic capacity and must be sold with its flexible attribute in addition to its underlying system and local (if applicable) attributes." This language implies that capacity with flexible operating characteristics can only be sold as a flexible capacity product at all times. While IEP agrees that the flexible attributes of a MW cannot be stripped off and sold separately, it does not follow that the sale of a MW of capacity of a flexible resource necessarily includes all of the attributes of the capacity. Contract provisions, use limitations (*e.g.*, the availability of air credits), and other operational requirements can create constraints on an individual generator's

² SCE's Opening Comments, p. 4.

ability and willingness to sell its flexible characteristics at certain times. A generator may instead choose to sell local or system RA capacity, rather than to commit to the stricter performance requirements that are likely to be required of flexible capacity. There may be months when for operational reasons the owner of the resource does not want to take on the additional obligations associated with flexible capacity and is willing to accept the lower revenues associated with generic capacity. In addition, if capacity with flexible operating characteristics may be sold only as a flexible capacity product, valuable capacity could be stranded without a sales option if the supply of flexible capacity exceeds the need as determined by the CAISO.

Moreover, at this point in the development of the flexible capacity product and requirements, it is premature to attempt to define and impose an obligation to offer flexible capacity. Until the obligations associated with flexible RA capacity are clearly stated, it will be impossible to evaluate the extent to which existing generators are able to comply with the requirements for selling flexible capacity in light of their existing contracts, use limitations, and operational constraints. Flexible capacity should command a higher price than generic capacity, and accordingly sellers will be highly motivated to sell as much capacity as possible as flexible capacity. But until the obligations associated with flexible capacity are clearly defined, it is impossible to predict the operational impacts of those requirements.

For these reasons, the Commission should not in this decision require the owner of a resource that has flexible capacity to offer the flexible capacity under all circumstances and for all hours. Until the requirements associated with providing flexible capacity are clearly delineated, the obligations of sellers of flexible capacity cannot be established on a rational basis.

For similar reasons, SCE's proposed modifications to section 4.4.3.4 of the PD (p. 52)³ should be rejected, except for the substitution of "stricter" for "longer."

IV. CONCLUSION

IEP respectfully urges the Commission to consider these comments as it deliberates on the Proposed Decision and to incorporate the corrections and modifications IEP has recommended in the Commission's final decision.

Respectfully submitted this 24th day of June, 2013 at San Francisco, California.

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³ SCE's Opening Brief, p. 5.