

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Electric  
Procurement Policy Refinements Pursuant to the  
Joint Reliability Plan.

R.14-02-001  
(Filed February 5, 2014)

COMMENTS OF THE UTILITY REFORM NETWORK  
ON THE PRELIMINARY SCOPING MEMO



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## I. INTRODUCTION AND SUMMARY

Pursuant to Order Instituting Rulemaking (“OIR”) 14-02-001,<sup>1</sup> The Utility Reform Network (TURN) submits these comments on the OIR’s Preliminary Scoping Memo (“PSM”).

As an initial matter, TURN compliments the Commission for issuing an OIR that positions it to consider electricity reliability and market issues in a deliberate and factual manner. Such an approach will be critical to making changes to Commission policy and practices that maintain reliability at reasonable cost. TURN looks forward to participating in such a reasoned process.

TURN recommends the Commission take the following actions regarding the PSM’s proposed schedule, issues and categorizations:

- ffi Prepare an Initial Reliability Planning Assessment before Track 1 Begins: TURN strongly recommends that a version of the study contemplated by Track 2 be performed before the remainder of the work in Track 1 is initiated.
- ffi Clarify the Track 2 Issues: TURN suggests a revised statement of the issues for Track 2.
- ffi Expand the Track 3 Issues to Include Quantification, not Just Identification, of Risks: TURN recommends Track 3 issues be expanded to include quantification of the potential costs of some of the risks the PRM cites.
- ffi Extend the Track 3 Schedule to Match the Related CAISO Stakeholder Process: TURN recommends the Commission anticipate considering Track 3 issues well after September 2014 so it may address issues arising in the relevant CAISO stakeholder process.
- ffi Change the Track 3 Category to Ratesetting: TURN believes Track 3 should be more properly categorized as ratesetting rather than quasi-legislative.

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<sup>1</sup> See Ordering Paragraph 7 at p. 27 and Section 8 at pp. 21-22 of the OIR.

ffi Provide Parties Other Opportunities to Request Evidentiary Hearings: TURN

recommends the Commission recognize that hearings may be required to assess factual issues that may arise in this case and allow parties the opportunity to request hearings as the OIR progresses.

## **II. TRACK 1 SHOULD BEGIN WITH AN INITIAL RELIABILITY PLANNING ASSESSMENT TO USE AS A FOUNDATION FOR TRACK 1 PROPOSALS**

TURN welcomes Commission consideration of the multi-year forward Resource Adequacy (RA) procurement requirements contemplated by Track 1. Before any reasoned review of such a requirement can be made, the Commission and parties need basic facts about the Commission's procurement policies and the amounts of procurement that take place under such policies.<sup>2</sup> Consistent with TURN's past statements on the Joint Reliability Plan (JRP),<sup>3</sup> TURN urges Commission staff to prepare as an initial task in Track 1 a working version of the type of "reliability planning assessment" contemplated for Track 2. Such materials would provide a factual basis for Track 1 discussions and counter many of the urban myths surrounding Commission procurement policy. The study could also be expanded to explore additional, more detailed load, resource and contract issues while Track 1 is being conducted. Finally, such information would also be helpful to market participants.

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<sup>2</sup> The Rulemaking could be read to mean that the only Commission policies that result in capacity procurement are the Long-Term Procurement Plan and the Resource Adequacy processes. TURN understands that the Commission and its staff know this not to be the case.

<sup>3</sup> See pp. 1 and 7 regarding "Part 3 of the [Joint Reliability] Framework" in Planned Remarks on behalf of The Utility Reform Network, by Kevin Woodruff, Principal, Woodruff Expert Services, prepared for the Federal Energy Regulatory Commission Technical Conference on Flexible and Local Resources Needed for Reliability in the California Wholesale Electric Market, Docket No. AD13-5-000, July 31, 2013, available by searching under Docket No. AD13-5-000 at <http://elibrary.ferc.gov/idmws/search/fercgensearch.asp>.

TURN believes such a reliability planning study could be performed with reasonable effort before Track 1 begins. TURN and the Commission’s Office of Ratepayer Advocates (ORA) prepared similar studies last year and believe Energy Division (ED) staff could and should readily provide even more complete and current analyses as an integral part of the Track 1 staff proposal.<sup>4,5</sup>

### III. THE TRACK 2 ISSUES WOULD BENEFIT FROM CLARIFICATION

TURN is pleased the Commission will begin to produce the “reliability planning assessments” (“RPA”) envisioned by the JRP. TURN believes the four sets of questions posed at p. 12 of the OIR are somewhat unclear and would benefit from clarification along the lines of the following, presented in the same format as the issues for Track 1 and Track 3:

1. **Determining the scope and methodology of the RPA.** The scope and method for conducting RPAs will need to be defined.
  - a. What years should be analyzed?
  - b. Which potential capacity needs should be assessed (e.g., system, local and/or flexible)?
  - c. What types of planning scenarios should be considered?
  - d. What planning criteria or other measures should be applied?
  - e. What assumptions should be made about future resource additions and retirements?
  
2. **Identify the data to be used to prepare the RPA.** The sources of data need to be identified and issues related to use of such data need to be resolved.

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<sup>4</sup> *Id.*, pp. 1-7 and Figures 1 to 5, particularly Figures 4 and 5. Though ORA presented its analysis at the FERC Technical Conference in AD13-5-000, TURN understands that ORA’s analysis is not available on-line.

<sup>5</sup> TURN does not believe the reliability analysis for Track 1 needs to be as extensive as the analyses now being envisioned for Track 2 may be. TURN also believes that the reliability analysis for Track 1 should not presuppose the final design of the analyses that will emerge from Track 2.

- a. What sources of data should be used regarding the: IOUs' procurement? Energy Services Providers' procurement? Community Choice Aggregators' procurement? Publicly-Owned Utilities' procurement?
  - b. How much of such procurement information can be made public? How can such public disclosure be maximized?
  - c. How can the confidentiality of market participants' commercially-sensitive data be protected?
3. **Establishing the timing and process for developing future RPAs.** The timing and method for producing future RPAs should be specified.
- a. How often should RPAs be updated?
  - b. What entities should be responsible for performing such updates?
  - c. How will other parties be able to suggest changes to the scope, methodology and data sources over time?
  - d. How will entities updating the RPA determine scope, methodology and data sources for future RPAs?

In identifying the above issues, TURN is not intending to suggest that the reliability planning assessment should be complex or burdensome to prepare. To the contrary, TURN believes that such assessments will be timely and valuable to both public policy discussions and market participants if they remain focused and avoid extraneous details.

#### **IV. THE TRACK 3 ISSUES SHOULD BE EXPANDED TO INCLUDE QUANTIFICATION, NOT JUST IDENTIFICATION, OF RISKS**

TURN appreciates the Commission's concern that certain risks that may be inherent in allowing Load-Serving Entities (LSEs) to participate in a CAISO backstop mechanism. These

risks include the potential for a backstop mechanism to “become a *de facto* primary procurement market” or that the “FERC or the courts will overturn rules” regarding the mechanism.<sup>6</sup>

The mere identification of such risks, however, is not sufficient for fully-informed Commission consideration of Track 3 issues. The Track 3 record should also be enlightened by an assessment of the impact of such risks, particularly the potential cost implications for customers. For example, in one extreme and hopefully unlikely scenario, if a CAISO backstop mechanism does become the *de facto* procurement mechanism, and the FERC or the courts decree that some or all utility-owned or contracted capacity will be subject to a Minimum Offer Pricing Rule, it is conceivable that customers could be saddled with paying for substantial amounts of expensive, excess capacity. An understanding of such potential outcomes and their possible costs to ratepayers is critical to the Commission’s review of backstop procurement mechanisms. TURN thus recommends the issues in Track 3 be explicitly expanded to include quantification of the potential ratepayer costs of various risks and outcomes.

#### **V. THE TRACK 3 SCHEDULE SHOULD BE EXTENDED TO MATCH THE RELATED CAISO STAKEHOLDER PROCESS**

TURN believes the Commission should expect to continue its deliberations on Track 3 well beyond the workshop and comments envisioned for the second quarter of 2014, or even the PSM’s anticipated decision date of September 2014. The CAISO’s goal for adoption of Phase I of its Reliability Services Initiative (RSI) – which will address the replacement for the Capacity Procurement Mechanism (CPM) – is the fourth quarter of 2014 or the first quarter of 2015.<sup>7</sup> But the evolution of the CAISO’s proposal over the next few months will not be predictable by the

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<sup>6</sup> OIR, Section 3.3, pp. 14-15.

<sup>7</sup> See slides 10 and 12 of CAISO presentation to its February 4 RSI stakeholder meeting, available at <http://www.aiso.com/Documents/Presentation-ReliabilityServicesIssuePaper.pdf>.

time parties file comments in June, or even by a decision date in September. As the Commission knows, CAISO straw proposals can change radically over time, even very late in the stakeholder process.<sup>8</sup> A Commission decision in September may thus not address the CAISO's final proposal to replace the CPM. TURN recommends the Commission anticipate extending this portion of the schedule considering Phase 1 of the RSI.

Further, the RSI has a Phase 2 with an unstated start date that could also address momentous issues, including the adaption of a CPM to a potential multi-year forward procurement requirement and review of need for risk-of-retirement backstop authority.<sup>9</sup> The Commission should thus plan to keep this Rulemaking open to consider its actions on those and other matters as well.

## **VI. THE TRACK 3 CATEGORY SHOULD BE CHANGED TO RATESETTING**

TURN believes Track 3 should be categorized as ratesetting rather than quasi-legislative. Although, as described in the PSM, much of the attention in Track 3 will be devoted to developing a Commission policy regarding a CPM replacement, the PSM states that Track 3 will also consider adopting rules relating to the extent to which CPUC-jurisdictional LSEs would be authorized to use the market-based mechanism to meet their RA requirements. Such rules could lead to specific directives to the LSEs with direct impacts on utility rates. Just as the RA and

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<sup>8</sup> For example, compare the major changes made between the Fourth and Fifth Revised Straw Proposals for a Flexible Resource Adequacy Criteria and Must Offer Obligation (FRAC-MOO), and then again between the Fifth Revised and Draft Final FRAC-MOO proposals. These proposals are available at <http://www.caiso.com/informed/Pages/StakeholderProcesses/FlexibleResourceAdequacyCriteria-MustOfferObligations.aspx>. Summaries of the differences are provided from pages 7 to 10 of the CAISO's January 23, 2014 stakeholder meeting presentation, available at [http://www.caiso.com/Documents/Presentation-FRAC-MOOJan23\\_2014.pdf](http://www.caiso.com/Documents/Presentation-FRAC-MOOJan23_2014.pdf), and from pages 7 to 8 of the CAISO's February 13, 2014 stakeholder meeting presentation, available at <http://www.caiso.com/Documents/AgendaPresentation-FlexibleResourceAdequacyCriteria-MustOfferObligation.pdf>.

<sup>9</sup> See slide 11 of CAISO presentation to its February 4, 2014 RSI stakeholder meeting.

LTTP proceedings are typically categorized as ratesetting because they affect the procurement obligations of the utilities, Track 3 has the same potential to affect utility procurement requirements and should be given the same categorization.

#### **VII. PARTIES SHOULD BE GIVEN OTHER OPPORTUNITIES TO REQUEST HEARINGS**

The Rulemaking states “[e]videntiary hearings are not anticipated at this time.”<sup>10</sup> TURN does not take issue with the word “anticipated” in this finding, but does ask the Commission to keep firmly in mind the possibility that hearings could be needed to address factual issues that may emerge as the OIR proceeds. A determination that evidentiary hearings are not needed should thus be tentative and subject to a procedurally proper request for evidentiary hearings by a party at a later point in any of the three Tracks.

#### **VIII. CONCLUSION**

For the reasons set forth above, TURN recommends that the PSM be modified as set forth in this pleading.

Dated: February 20, 2014

Respectfully submitted,

By: \_\_\_\_\_/s/\_\_\_\_\_  
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<sup>10</sup> Rulemaking, OP 3 (p. 26). See also Section 6 at p. 19.