

**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

**COMMENTS OF MARIN CLEAN ENERGY ON STAFF PROPOSAL ON THE
IMPLEMENTATION OF THE FLEXIBLE CAPACITY PROCUREMENT
FRAMEWORK**

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Pursuant to the Administrative Law Judge’s email Ruling of February 18, 2014, Marin Clean Energy (“MCE”) provides these comments on the Commission’s Energy Division Staff’s “Proposal on the Implementation of the Flexible Capacity Procurement Framework” (“Staff Proposal”) dated February 10, 2014.

I. BACKGROUND

MCE is a Community Choice Aggregator (“CCA”) established pursuant to California law and Commission regulations. MCE at present serves approximately 125,000 customer accounts throughout Marin County and the City of Richmond. While MCE customers receive generation service from the CCA program, they continue to receive transmission, distribution, billing and non-commodity services from Pacific Gas and Electric Company (“PG&E”). MCE’s procurement efforts are focused on building a low carbon portfolio, with total renewable energy deliveries exceeding the renewables content requirement of the state’s Renewables Portfolio Standard (“RPS”), as well as exploring the utilization of technologies to reduce total energy consumption or to shift peak energy consumption timing.

II. COMMENTS

A. Flexible Capacity Need Determination and Allocation of the Procurement Obligation Should Be Based on Cost-Causation Principles

MCE is concerned that the Staff Proposal would diminish the market signal inherent in the way the total need is established by CAISO by changing the way the procurement obligation is subsequently allocated by the CPUC. Under the Staff Proposal, the CAISO assigns to the Local Regulatory Authority (“LRA”) the flexible capacity requirement built up from CAISO’s analysis of jurisdictional Load Serving Entities’ (“LSEs”) contribution to net load. As noted in MCE’s January 31, 2014, comments submitted to the CAISO, the CAISO Tariff is not structured for this allocation approach because CAISO interacts with market participants through their respective Scheduling Coordinators, and there are no direct tariffed relationships between the CAISO and LRAs.¹

In the case of the original Resource Adequacy requirement policy, the CPUC developed the general policy structure which was then utilized by CAISO as the requirement for all CPUC-jurisdictional LSEs and as a “default” obligation for non-CPUC jurisdictional entities absent action by another LRA. Because the flexible capacity program is developing simultaneously at the CPUC and CAISO with a joint implementation target of 2015, the policy development process is progressing differently for the flexible capacity program. CAISO has the responsibility and expertise to identify the locations for, and volumes of, required energy and capacity products based on network power flow topologies to maintain system reliability. That system analysis should be the basis for procurement obligations, and any market distortion due to a deviation from basic cost-causation principles should be well understood and rational.

¹ Comments of Marin Clean Energy on FRAC-MOO, January 31, 2014, posted at <http://www.caiso.com/Documents/MCEComments-FlexibleResourceAdequacyCriteriaMustOfferObligation-FifthRevisedStrawProposal.pdf>.

“[S]taff proposes to allocate flexibility to CPUC jurisdictional LSEs based on load-ratio share of CEC forecasted ISO coincident peak.”² MCE believes the procurement allocation should follow cost-causation principles. Insofar as the driver of the need for flexible capacity reflects the contribution to net load variability inherent in each LSE’s portfolio, allocating the procurement obligation instead upon a LSE’s load-share ratio will shift costs to those LSEs with relatively flatter load profiles and a smaller contribution to load variability. Changing the allocation from what CAISO analysis uses will mute the signal designed by CAISO and thus distort the market. It would also place CPUC jurisdictional entities on a market footing different than other LSEs operating within CAISO but not subject to CPUC jurisdiction.

Language in the Staff Proposal’s “Next Steps” section may suggest that the load share allocation methodology is a temporary approach what will be reexamined ahead of the 2016 program year.³ It should be made clear whether that the load-share ratio allocation approach is a temporary mechanism embraced for administrative necessity to accommodate the aggressive FRAC-MOO implementation schedule. MCE suggests that the CPUC unequivocally commit to applying cost-causation principles to FRAC-MOO procurement obligation implementation.⁴

B. The Proposed Approach for Assigning Effective Flexible Capacity (“EFC”) Listings Creates Regulatory Uncertainty

MCE suggests that the proposals for initial FRAC-MOO implementation contemplate a period of greater flexibility around resources securing their EFC qualifications before and during the program year. MCE is concerned that if FRAC-MOO implementation must occur for the

² See, Staff Proposal at 5.

³ See, the first recommended follow-up issue in the Staff Proposal at page 16.

⁴ The CAISO’s Flexible Resource Adequacy Criteria and Must Offer Obligations (“FRAC-MOO”) stakeholder process web page is at <http://www.caiso.com/informed/Pages/StakeholderProcesses/FlexibleResourceAdequacyCriteria-MustOfferObligations.aspx>.

2015 RA program year (and possibly notwithstanding the status of rule development), then LSEs may need to undertake outreach to counterparties to have resources secure an EFC rating and to negotiate commercial terms for the provision of the new product or service. The marketplace should have adequate time between finalization of the regulatory structure (including details on product definitions, categories, and procurement rules) so that buyers and sellers can coalesce around relatively standardized contract language. However, the phasing of implementation contemplated by the CPUC and CAISO keeps some important program elements in a fluid and uncertain state. Lessening the degree of regulatory risk associated with product definitions, the allocation of the procurement obligation, and the rules around categorization will help LSEs pursuing longer term capacity procurement.

C. Counting Criteria Must Be Clarified

MCE recommends clarifications to Section VII of the Staff Proposal. Page 9, “condition 2” of the Staff Proposal suggests that “a resource must operationally reach Pmin before it can sell capacity as flexible.” MCE thinks that staff intended this language to mean that the resource must have reached commercial operation and demonstrated the ability to be available to CAISO under the FRAC-MOO obligation before a commercial transaction can be made. An alternative reading would imply that a resource must be physically “operating” as a condition of being able to sell the product. There is no reason that eligibility of a resource must be contemporaneously *in operation* as a condition of being available *to contract*. Rather, LSEs should be permitted to list resources that are anticipated to become commercial or be available to operate (such as those coming off long-term maintenance or operational suspension), with an ability to make cover showings as is the rule today for “generic” capacity.

Additionally, the example included for the 200 MW resource should be made clear with respect to how that resource could be listed in a LSE’s showing. MCE understands from the

Staff Proposal that a 200 MW unit with a 50 MW Pmin could meet a System or Local need of 200 MWs with no flexible capacity offering, or up to 150 MWs of flexible capacity offering (which can simultaneously count against that LSE’s system or local RA requirement) plus 50 MWs of “generic” system or local RA). MCE views the flexible capacity product as the superior RA product that can simultaneously apply against the purchasing LSE’s flexible capacity obligation and a system/local obligation, where the RA obligation effectively has a sub-obligation for flexible capacity. Theoretically, an LSE could meet a system RA obligation entirely from eligible flexible capacity. This is consistent with the statement on page 10 of the Staff Proposal, “[i]n order to avoid over procurement, an IOU must show flexible resources towards system targets and local RA targets when applicable.”

D. Penalties Should Not Be Compounding

The Staff Proposal should be clarified that if an LSE has a deficiency in meeting its flexible capacity procurement obligation with MWs that would also go to satisfy its system or local RA requirement, the potential sanction should be based *only* on the flexible capacity deficiency, not as a separate, additional sanction for the same MWs that in the absence of the flexible capacity program would be handled as a system or local RA deficiency.

E. MCE Supports the Staff’s Approach to Use Limited Flexible Resources

MCE agrees with the Staff Proposal that LSEs with smaller flexible capacity requirements should not be subject to the use limited resource category restraints and that additional work will be required to incorporate preferred resources including demand response and storage. LSEs with relatively small RA obligations could be subjected to category procurement limits that do not translate to commercially transactable volumes. Provided that the total volume and characteristics of the capacity secured and made available to CAISO by these

LSEs cannot drive a system level deficiency, then there should be flexibility as to the application of the procurement category limitations.

i. A Smaller Number of MCC Category Types is a Reasonable Approach at this Time

MCE also supports an overarching policy consideration to permit the broadest pool of potential resources that can provide capacity products that will help meet the overarching need for a responsive market. The CAISO's approach of setting maximum category contribution by categories should support innovation in eligible resource types, particularly from the less conventional storage and demand response technologies. The approach should also help address resources with environmental-based operating restrictions (such as air-permit restrictions) or limited fuel availability (such as hydro-electric resources). In light of the rapid FRAC-MOO implementation schedule, however, the CAISO's and Staff Proposal's use of a smaller number of category types until the 2018 compliance year, with potential revision to be developed based on experience, is a reasonable approach.

ii. The CAISO Should Collect Use Limited Resource Information from Participating Resources

On page 15 of the Staff Proposal is a recommendation that the *CPUC* collect additional information on resources with the LSE submissions. MCE respectfully suggests that the CAISO is better suited to collect this information from the *participating resources*, as opposed to the LSEs, since not all LSEs own the use limited resources and may not have that information to the extent it is not germane to the procurement of stand-alone RA products. While LSEs should be able to rely upon representations made in contracts with their suppliers regarding the eligibility category of contracted flexible capacity resources, the binding resource use limitations should be known to CAISO at the time the effective flexible capacity ("EFC") quantity is established.

Accordingly, MCE suggests that the CPUC and CAISO work together to determine from the pool of participating resources the quantity of technically eligible flexible capacity in the fleet and then compare that to the quantity contracted in the respective year- and month-ahead showings.

F. Next Steps

MCE appreciates staff's outline of potential follow-on issues on pages 16-17 and provides the following comments.

- Item 1 (Allocation based on causation): As previously noted, the Commission should be unequivocal in its support of applying cost-causation principles in the allocation of the flexible capacity procurement obligation and avoid market distorting alteration of the CAISO determination based on individual LSE's contribution to net load changes. Failing to do so will penalize LSEs that seek to develop programs to manage net load variations through their larger portfolio development.
- Item 2 (Comprehensive RA reform): MCE supports greater simplification of the verification processes and hopes that a single LSE template submission for all RA purposes could be jointly developed by the CPUC and CAISO. Currently, separate "showing" submissions are made and false deficiencies can be flagged due to minor calculation differences between the CAISO and CPUC programs. MCE would appreciate efforts to simplify the manner that capacity resource characteristics CAISO needs for reliability can be better secured through products with durable regulatory and commercial definitions.
- Item 3 (reassessment of product categories' number and scope, particularly for use-limited resources and demand response): MCE encourages creation of resource eligibility

categories that allow the broadest pool of potential resources consistent with the monthly net load curve requirements to reliably manage the system. Moreover, creation of eligibility categories should be done in a way to encourage participation by emerging technologies.

With respect to the draft implementation calendar, MCE reiterates the prior comment that at least during the initial implementation period additional flexibility exist for resources to establish an EFC rating, particularly between May and October ahead of the Year-Ahead showing deadline, and then during the first year of FRAC-MOO for the Month-Ahead showings.

III. CONCLUSION

MCE appreciates the opportunity to comment on the Staff Proposal. Our comments reflect MCE's desire to build a resource portfolio for its customers that supports CAISO's reliable operation of the grid while California's energy supplies achieve lower carbon intensity and become increasingly efficient. Because MCE pursues longer term contracts for energy and capacity resources, it is important that implementation of the FRAC-MOO program minimize regulatory risks in terms of shifting procurement obligation methodologies and product definitions.

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