

**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)

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON THE STAFF PROPOSAL REGARDING IMPLEMENTATION
OF THE FLEXIBLE CAPACITY PROCUREMENT FRAMEWORK**



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I. INTRODUCTION AND SUMMARY

Pursuant to February 27, 2014 e-mail Ruling of ALJ Gamson, The Utility Reform Network (TURN) submits these comments in reply to other parties' opening comments regarding the *Staff Proposal on the Implementation of the Flexible Capacity Procurement Framework* issued February 10, 2014 (Staff Proposal).

Parties' comments on the Staff Proposal – some of which also discussed the related California Independent System Operator (CAISO) Flexible Resource Adequacy Criteria and Must Offer Obligation (FRAC-MOO) tariff – framed numerous important issues regarding the design of both Commission and CAISO policies. Several parties – including TURN – commented unfavorably on the divergence between Commission and CAISO proposals for implementing the same procurement requirements. Also, several parties – again including TURN – requested that the Commission schedule a workshop to review these issues and/or that the Energy Division (ED) further clarify its proposals.¹ TURN believes many of the issues parties raised deserve significantly more review before the Commission or CAISO adopt specific flexibility procurement requirements. TURN focuses these reply comments on the Commission's process for providing such review.

II. ENERGY DIVISION SHOULD HOLD A WORKSHOP TO REVIEW ITS FLEXIBLE CAPACITY PROPOSAL IN RELATION TO CAISO'S PROPOSED FRAC-MOO TARIFF

Several parties requested a workshop to review one or more aspects of the Staff Proposal.² No party expressed opposition to a workshop. Notably, in a reversal of its prior

¹ The Staff Proposal explicitly asked parties to comment on whether staff should organize a workshop to discuss the proposal (p. 18).

² See CAISO Comments, p. 3, IEP Comments, pp. 1-3 and NRG Energy Comments, p. 6. (All comments cited herein were filed February 24 in response to the Staff Proposal.) SCE did not ask directly for a workshop, but did seek "clarification" of aspects of the Staff Proposal that a workshop could provide. See

position, SDG&E also made detailed arguments against the Staff Proposal to require generic and flexible RA capacity to be “bundled” and offered an alternative proposal of its own.³ TURN again requests that the Commission hold a workshop on the Staff Proposal addressing the topics parties raised in comments, including the critical set of issues raised in the following section regarding the relationship between Commission determinations and the FRAC-MOO tariff.

III. THE CAISO FRAC-MOO TARIFF SHOULD NOT CONFLICT WITH COMMISSION POLICY

Several parties noted the conflicts between the Staff Proposal and the CAISO’s *Draft Final Proposal* for the FRAC-MOO tariff.⁴ All parties appear to agree that Commission policy and the CAISO tariff should correlate as closely as possible. But it is not clear how such correspondence will emerge from the separate processes of this docket and the CAISO FRAC-MOO stakeholder process. The calibration of these two policies – preferably by having the CAISO tariff adopt Commission rules by reference – should be a key focus of a workshop on these issues.

IV. THE COMMISSION AND CAISO SHOULD CONSIDER DELAYING IMPLEMENTATION OF SOME ASPECTS OF FLEXIBILITY PROCUREMENT REQUIREMENT

It is possible – perhaps likely – that some of the important issues raised in comments cannot be reasonably resolved between now and June, when the Commission plans to issue its annual RA decision to guide Load-Serving Entities’ (LSEs’) procurement for the 2015

SCE’s Comment, pp. 4-8. The CAISO also explicitly asked for clarification of some matters at pp. 2-3 and 9-12 of its Comments.

³ SDG&E Opening Comments, pp. 2-10.

⁴ See CAISO Comments, pp. 5-10, SCE Comments, pp. 1-6, SDG&E Opening Comments, pp. 10-12, IEP Comments, pp. 1-3, NRG Energy Comments, pp. 3-4, ORA Comments, pp. 2-3 and AReM Comments, pp. 1-7.

compliance year. In their comments, two parties proposed alternatives for managing this challenge.

First, Shell Energy North America (Shell) suggested that implementation of flexible procurement requirements be deferred beyond 2015 unless ED can demonstrate that a need for such a requirement exists in 2015.⁵ As noted below, TURN believes Shell is likely correct that there is no “need” for a mandatory flexible procurement requirement in 2015 in the sense that there is a surplus of flexible capacity and that LSEs will likely show adequate flexible capacity in their Resource Adequacy (RA) filings. However, TURN is concerned that another year of delay in implementing a flexible procurement requirement would reduce the momentum toward developing a functioning flexible RA requirement.

TURN prefers the proposal made by the Office of Ratepayer Advocates (ORA), which suggested that the flexibility requirement be implemented in 2015, but without any distinctions between “categories” of resources that meet the general qualification to be considered a flexible resource.⁶ TURN thinks this is a simple, practical solution for allowing implementation of a flexible procurement requirement to proceed in 2015 while allowing the Commission and CAISO time to resolve the more difficult issues, such as the “categorization” of flexible resources. There are clear benefits to reducing the number of issues that need to be resolved by June. And given that the great bulk of flexible capacity now under contract is apparently in the proposed category that provides the greatest amount of operating flexibility,⁷ TURN does not believe there is any need at this time to limit the types of flexible resources that LSEs include in

⁵ Shell Comments, pp. 1-5.

⁶ ORA Comments, pp. 1 and 3-5.

⁷ Staff Proposal, p. 14. See similar statements at p.6 of the CAISO’s *Draft Final Proposal for Flexible Resource Adequacy Criteria and Must-Offer Obligation*, February 7, 2014, available at <http://www.caiso.com/informed/Pages/StakeholderProcesses/FlexibleResourceAdequacyCriteria-MustOfferObligations.aspx>.

their RA showings. There may be other aspects of the flexibility procurement requirement whose implementation could also be deferred to 2016.

V. CONCLUSION

TURN encourages the Commission to hold workshops to review the Staff Proposal and related issues in more detail, particularly the need to conform the CAISO FRAC-MOO tariff to Commission policy. TURN also recommends that the Commission consider deferring aspects of its flexible capacity requirement – particularly implementation of different “categories” of flexible resources – from 2015 to 2016 to allow it, the CAISO and parties more time to resolve key aspects of this significant and ground-breaking new requirement.

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Respectfully submitted,

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