

**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 REGARDING  
APRIL 9, 2014 RESOURCE ADEQUACY WORKSHOP**

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**TABLE OF CONTENTS**

I. Introduction.....1

II. The Commission should prioritize resolving inconsistencies between CAISO and CPUC Flexible Capacity categories and related rules and requirements. ....1

III. Regulatory uncertainty contributes to high transaction costs and other risk-related costs that are passed on to ratepayers. ....2

IV. The Commission should consider alternatives to implementation of mandatory Flexible Capacity procurement for 2015. ....3

V. Conclusion .....4

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**I. Introduction**

Pursuant to the Administrative Law Judge’s instruction at the April 9, 2014 Resource Adequacy Workshop (“Workshop”), Marin Clean Energy (“MCE”) submits the following comments addressing resource adequacy (“RA”) and flexible capacity procurement issues discussed at the Workshop. Marin Clean Energy appreciates the opportunity to participate in the Workshop and provide additional comments on the RA and flexible capacity issues addressed on April 9. The issues discussed at the Workshop are complex, and MCE appreciates the Commission’s ongoing effort to provide a forum for constructive information sharing and discussion. MCE’s comments focus primarily on the threshold issue of the need for regulatory certainty and consistency, and the question of whether implementation of the interim compliance framework for flexible capacity obligations should be postponed for a year in order to provide the Commission and the CAISO an opportunity to resolve outstanding issues and create a more internally consistent regulatory framework.

**II. The Commission should prioritize resolving inconsistencies between CAISO and CPUC Flexible Capacity categories and related rules and requirements.**

A number of parties at the Workshop voiced continuing concern regarding the divergence between the Staff Proposal on the Implementation of the Flexible Capacity Procurement

Framework (“Staff Proposal”) and the California Independent System Operator (“CAISO”) Flexible Resource Adequacy Criteria and Must-offer Obligation (“FRAC-MOO”) framework with respect to the requirements and restrictions applicable to use-limited resources. The latest version of the Staff Proposal continues to acknowledge, but does not address the fact that the Commission’s proposed categorization and requirements for procurement of use-limited flexible resources to meet compliance obligations are substantively different from the CAISO’s categorization and requirements under the FRAC-MOO framework.

As discussed at the Workshop and in MCE’s prior comments, the differences between CAISO and CPUC resource limits and requirements could result in a Load-Serving Entity (“LSE”) procuring flexible capacity resources that meet all applicable CAISO requirements, and yet be obliged to procure additional Category 1 flexible capacity solely as a compliance obligation. This is not a hypothetical problem, but a real flaw in the regulatory construct as currently proposed. MCE urges the Commission to prioritize eliminating differences between categories of use-limited resources *prior* to implementing the Commission’s flexible capacity procurement framework.

**III. Regulatory uncertainty contributes to high transaction costs and other risk-related costs that are passed on to ratepayers.**

MCE agrees with parties that have pointed out in comments and at the Workshop that in light of the lack of uniformity discussed above and other unresolved issues, the cost to market participants and ratepayers of prematurely implementing the Commission’s interim flexible capacity framework may well outweigh the benefits. To the extent that the Commission is proposing to impose a mandatory compliance requirement for procurement of a newly defined resource, with program requirements that are inconsistent with CAISO tariff requirements

applicable to the same resources, market participants will face compliance risk in addition to non-performance risk. In addition, both the CAISO and Commission contemplate making changes in the flexible capacity product requirements and program rules during and after the 2015-2017 interim period. Risk comes at a cost, and LSEs will pass the costs associated with procuring in the shadow of regulatory uncertainty onto their ratepayers. This issue has been noted, but not adequately acknowledged or accounted for, in these proceedings.

**IV. The Commission should consider alternatives to implementation of mandatory Flexible Capacity procurement for 2015.**

A number of parties noted at the Workshop that there does not appear to be a demonstrated need for procurement of additional flexible capacity resources for 2015, and possibly for the next several years. As much as 30,000 MW with flexible capacity attributes were under contract and operating as of last year, according to some parties. In light of this and the unresolved program design issues discussed above and at the workshop, MCE strongly supports parties suggesting that the Commission put off implementing the interim flexible capacity procurement obligation in 2015. Instead, as Shell Energy North America (“SENA”), The Utility Reform Network (“TURN”) and the Office of Ratepayer Advocates (“ORA”) suggest, the Commission should monitor flexible capacity in 2015 as it has in 2014, and use the additional time to complete work on outstanding issues, including consistency in categorization of use-limited resources, addressing a flexible capacity and cost allocation methodology that reflects causation, further investigating implications of the “bundling” issue raised by San Diego Gas & Electric Company, eligibility rules for Demand Response and Energy Storage functioning as flexible resources etc.

If the Commission decides to move forward with implementation in 2015, MCE supports TURN's recommendation to consider delaying flexible capacity categorization at least from 2015 to 2016. This would help simplify the program during its initial roll-out period and at least mitigate uncertainty and risk to some extent. According to the April 9, 2014 Staff Proposal, the 2014 annual flexible RA showings indicate that "almost all of the flexible resources reported by LSEs were in Category 1."<sup>1</sup> In view of this fact, TURN's recommendation has merit and appears unlikely to result in under-procurement of Category 1 flexible capacity.

On a related note, a number of parties have noted that while the focus of this proceeding is on procurement of flexible capacity, it is actually the mandated economic bidding of resources into CAISO day-ahead and real-time markets (as opposed to self-scheduling) that will provide CAISO the liquidity needed to address system needs during the three-hour ramp periods. It would make sense to examine this foundational issue more closely, particularly in light of growing concerns over the possibility of over-procurement and costs associated with procurement of flexible capacity under the proposed framework.

## **V. Conclusion**

MCE thanks the Commission, Commissioner Florio, and Administrative Law Judge Gamson for their attention to these comments.

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<sup>1</sup> April 9, 2014 Staff Report (redline) at 15.

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