

**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 ALLIANCE FOR RETAIL ENERGY MARKETS
ON THE PRELIMINARY 2014 FLEXIBLE CAPACITY NEEDS ASSESSMENT
SUBMITTED BY THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR AND
REVISED ENERGY DIVISION PROPOSALS**

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TABLE OF CONTENTS

I. INTRODUCTION 2

II. REPLY COMMENTS 2

A. Many Parties Agree That Enforcement of Flexible Capacity Obligations for the 2015 RA Year Should Be Deferred. 2

B. Using the Path 26 Allocation Process to Address Resource Adequacy (“RA”) From CHP and CAM Units Needs Further Review. 3

C. The IOUs’ Proposals for Cost Recovery of Replacement Capacity and Related RA Showings Must Be Rejected. 4

III. CONCLUSION 7

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The Alliance for Retail Energy Markets (“AReM”) ¹ submits these reply comments, in accordance with the direction provided by Administrative Law Judge (“ALJ”) David M. Gamson of the California Public Utilities Commission (“Commission”) at the April 9, 2014 Resource Adequacy (“RA”) Workshop (“Workshop”), which set this date for filing of reply to the comments submitted by parties on April 18, 2014 with respect to *Preliminary 2014 Flexible Capacity Needs Assessment*, (“CAISO Assessment”) submitted by the California Independent System Operator (“CAISO”) on April 4, 2014 and on *Revised RA Implementation Staff Proposals* (“Staff Proposals”) issued by Energy Division Staff (“Staff”) on April 3, 2013 and on *Staff Proposal on the Implementation of Flexible Capacity Procurement Framework* (“Staff Flexible Capacity Proposals”) issued by Staff on April 9, 2014.

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

I. INTRODUCTION

AReM has reviewed the opening comments submitted on April 18, 2014 by parties in this proceeding. AReM's reply to the opening comments focus on the following:

- Numerous parties echoed AReM's request that the Commission (and CAISO) defer any enforcement of flexible capacity obligations for the 2015 RA year, given the issues that remain to be resolved.
- New proposals have emerged with respect to the Commission's proposed Path 26 netting proposal to address the RA issues from CHP and CAM units that are located in Investor Owned Utility ("IOU") territories other than the territory of the IOU counterparty to the underlying contract. These new proposals need further vetting to ensure that they do not diminish what would otherwise be the allocation of Path 26 space to non-IOU Load-Serving Entities ("LSEs").
- The IOUs' proposals for management of cost recovery of outage replacement capacity are unfair to direct access customers, and should be rejected.

II. REPLY COMMENTS

A. Many Parties Agree That Enforcement of Flexible Capacity Obligations for the 2015 RA Year Should Be Deferred.

Many parties that submitted opening comments – other than the CAISO – have joined AReM in requesting deferral of enforcement of the flexible capacity requirements for the 2015 RA year or deferral of elements of those requirements.² The parties' opening comments echo AReM's concerns that there are too many details that remain unresolved or unclear. These issues are not trivial, and include:

² See, for example, Marin Clean Energy, p. 3, Office of Ratepayer Advocates, p. 1, Shell Energy, p. 1, and The Utility Reform Network, p. 5.

- Disputes between the IOUs and their CHP contractual counterparties on whether the CHP contracts convey flexible capacity rights.
- Lack of uniformity in some RA counting conventions between the CPUC and CAISO (not to mention lack of uniformity as to the quantities that must be procured).
- The absence of a final Flexible Capacity Needs Study from the CAISO, which the Phase 3 Scoping Memo called for by April 1, 2014.³
- Lack of availability from the CAISO of final Effective Flexible Capacity (“EFC”) values for resources until September, which is too late in the procurement cycle for efficient and rational procurement by LSEs for the annual RA showing in October, at least in this first year of enforceable requirements.
- The idea that buyers of capacity will not be given any information on how much of a resource’s flexible capacity is qualified in each category and yet will be subject to an after-the-fact validation of their procurement by category.
- Whether self-scheduling issues should be addressed to determine if there are other ways to address the operational challenges that are created by increasing renewables.

Accordingly, AReM urges the Commission to continue the 2014 reporting requirements for 2015 and to defer mandatory compliance until uniform and well-understood rules are in place for both the CAISO and the Commission.

B. Using the Path 26 Allocation Process to Address Resource Adequacy (“RA”) From CHP and CAM Units Needs Further Review.

In its opening comments, AReM noted that it did not object to the Staff Proposal on Path 26 netting, based on the Staff representation at the April 9 workshop that its proposal was not

³ Phase 3 Scoping Memo, R.11-10-023, August 2, 2013, p. 6.

intended to result in any diminution of the Path 26 allocation that a non-IOU LSE would have received in the absence of the netting process. In their opening comments, Energy Producers and Users Coalition/Cogeneration Association of California/California Cogeneration Council (“CHP Parties”), Pacific Gas and Electric Company (“PG&E”), and San Diego Gas & Electric Company (“SDG&E”) have each suggested modifications to the Path 26 netting proposal included in the Staff’s Proposals. In particular, AReM objects to the CHP Parties’ proposal that CHP resources in excess of the netting be exempt from Path 26 constraints, as it appears that such an approach might indeed reduce the Path 26 allocation to non-IOU LSEs.⁴ In addition, the proposals offered by PG&E that the netting apply to all resources, not just CAM/CHP,⁵ and by SDG&E that excess CHP resources be netted against grandfathered contract flows accounted for in earlier steps of the Path 26 netting process⁶ require further vetting. With these three new variations of the Staff’s Proposal put on the table, AReM’s concerns about reductions to its members allocated share of Path 26 for RA purposes are again real and unresolved. AReM believes that it would be worthwhile for the Staff to hold a workshop in which the three parties will present their proposals and demonstrate that they will not reduce the Path 26 allocation to non-IOU LSEs, and AReM requests that the Commission direct Staff to hold such a workshop before adopting any of the proposals offered by CHP Parties, PG&E, or SDG&E.

C. The IOUs’ Proposals for Cost Recovery of Replacement Capacity and Related RA Showings Must Be Rejected.

In their opening comments, each of the IOUs proposed modifications to the Staff’s Proposal for cost recovery of replacement capacity. Staff proposed that the cost recovery for

⁴ CHP Parties, pp. 2-3.

⁵ PG&E, p. 15.

⁶ SDG&E, p. 4.

replacement capacity should be based on each IOU's average RA cost as detailed in its annual RA Report. Southern California Edison Company ("SCE") agrees with Staff that the average cost from the RA Report is a suitable proxy when it uses RA from its bundled customer portfolio for replacement, and indeed suggests that such capacity should always be the first choice for replacement if the portfolio has uncommitted capacity that could be designated for replacement. If bundled customer portfolio capacity is not available, however, SCE asks to be allowed to recover the costs of market purchases, and if no market purchases are available, then SCE asks to be allowed to recover the price imposed by the CAISO if it undertakes backstop procurement utilizing the Capacity Procurement Mechanism ("CPM") when SCE does not meet its replacement obligations.⁷ SDG&E seeks to eliminate the use of the average cost of RA from the RA Report, and instead proposes that any replacement capacity from its bundled customer portfolio should be assigned a cost equal to the CPM price.⁸ SDG&E also wants the Commission to specify whether it will be allowed to recover through CAM any of the costs it undertakes in anticipation of outages, if those anticipated outages never materialize.⁹ PG&E is on board with the Staff proposal to use the average cost from its RA Report, so long as all imported RA is excluded from the proxy price when it uses RA from its bundled customer portfolio to meet the replacement obligation, and so long as it can recover the full costs of any market purchases it makes for replacement capacity, which it chooses to make market purchases rather than use bundled customer portfolio RA.¹⁰

Direct access customers are already saddled with increasing CAM costs. Now the IOUs are asking to move their bundled customer portfolio costs into CAM when they use bundled

⁷ SCE, pp. 11-12.

⁸ SDG&E, p. 5.

⁹ SDG&E, pp. 5-6.

¹⁰ PG&E, pp. 15-16.

customer capacity to replace CAM capacity, and to be able to use that capacity preferentially to what may be lower cost replacement capacity. AReM is concerned that these proposals potentially burden its direct access customers with unnecessarily high replacement costs. As the manager of outage replacement capacity for CAM units, the IOUs should be required to procure the least cost replacement capacity for all the customers – bundled and direct access - who are paying for that capacity. Utilizing excess bundled customer portfolio RA for replacement capacity may make the most sense for managing bundled customers replacement capacity costs, but may well not be the most economic option for the direct access customers who are paying for replacement capacity. The fact that what might be best for bundled customers who pay for CAM resources might be different than what is best for direct access customers who pay for CAM resources is a serious issue that must be addressed to prevent any unfair cost shifting to direct access customers.

Moreover, the utilities proposal to pass along CPM costs to direct access customers when the CAISO uses backstop procurement to replace capacity from CAM units on an outage – *i.e.*, when the IOU does not meet the replacement obligations -- needs further consideration. Specifically, the reasons why the IOU fails to meet the replacement obligation must be considered in determining whether or not it is reasonable for the IOU to recover those costs – from bundled customers or direct access customers. If the failure is because there was simply no replacement capacity available to the IOU, CAISO backstop procurement may be warranted, but if the IOU has simply neglected its obligations, then such recovery may not be warranted.

Lastly, SDG&E’s proposals to recover costs incurred “in anticipation” of having a replacement obligation and to use the CPM price as the proxy for outage replacement costs are far too bereft of detail to be acceptable – such questions as to how much anticipatory capacity

can SDG&E procure, and what specific authority does it need from the Commission to do so must be addressed before any such proposal could be acceptable.

In its discussion on replacement capacity issues, SCE also recommends that the IOUs should have the flexibility in their respective year-ahead showings to show a “like” resource instead of the exact CAM resource.”¹¹ SCE states that this flexibility would allow it “to exercise a least-cost best-fit approach to their respective yearly Local RA showings and consequently, their respective month-ahead system showings without compromising reliability or the intent of the CAM programs.” The same concerns that AReM has stated above with respect to whether the IOUs’ use of bundled customer portfolio for replacement RA will shift costs from bundled customers to direct access customers applies to this proposal as well. Specifically, while it may be beneficial for bundled customers when SCE optimizes its bundled customer portfolio, there is no reason to presume that it is beneficial for direct access customers who pay for the CAM resources. A decision by the IOUs not to use the CAM resource should only be permitted if the IOU has verified with the ESPs whose customers are paying for CAM resources that the substitution of resources is acceptable to them.

III. CONCLUSION

AReM appreciates the opportunity to present these reply comments and urges the Commission to adopt AReM’s recommendations described above.

¹¹ SCE, p. 10.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sue Mara".

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