

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 OFFICE OF RATEPAYER ADVOCATES ON  
RESOURCE ADEQUACY WORKSHOP**

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## I. INTRODUCTION

The Office of Ratepayer Advocates (ORA) submits the following reply comments on the April 9, 2014 Resource Adequacy Workshop proposals and presentations, including the California Independent System Operator's (CAISO) presentation on "2014 ISO Flexible Capacity Needs Assessment: Study Methodology, Assumptions, and Preliminary Results." The following comments respond to party comments filed on April 18, 2014.

ORA recommends that:

- The CAISO and the California Public Utilities Commission (CPUC or Commission) coordinate to establish consistent flexible capacity policies and requirements.
- The Commission not adopt proposed categories for flexible capacity resources with use limitations for the 2015 resource adequacy (RA) year. Mandatory flexible capacity requirements only be adopted if a Federal Energy Regulatory Commission (FERC) tariff creating an enhanced must offer obligation (MOO)<sup>1</sup> for flexible resources is approved ahead of the June 2014 Decision for the 2015 RA year.

## II. DISCUSSION

### A. **The CAISO and Energy Division staff proposals and initiatives should provide coordinated and consistent frameworks and allow adequate time for stakeholder input.**

Many parties' opening comments expressed concern regarding the lack of coordination and consistency in the flexible capacity frameworks as provided in the proposals of the Energy Division (ED) Staff and the CAISO.<sup>2</sup> ORA's opening comments outlined several areas of inconsistency and lack of coordination between the two proposals, including differences in approach to flexible capacity allocation methodologies, and a lack of consensus on implementation of flexible procurement categories.<sup>3</sup> As several parties explained, a clear risk of

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<sup>1</sup> The enhanced MOO for flexibility will require flexible resources to economically bid into the CAISO market between the hours of 5:00am and 10:00pm.

<sup>2</sup> See The Utility Reform Network comments, pp. 4-5; ENERNOC comments, pp. 4-8; Marin Clean Energy comments, pp. 2-3; Pacific Gas and Electric Company comments, pp. 6-12; San Diego Gas & Electric Company comments, p. 2; Southern California Edison Company comments, p. 13; Alliance for Retail Energy Markets comments, pp. 2-8.

<sup>3</sup> ORA comments, pp. 2-3.

rising costs for ratepayers exists. The Utility Reform Network (TURN) noted that differences between the proposals regarding the stringency of RA requirements “would create risks that customers would bear higher costs than necessary,” due to either over-procurement by LSEs, or additional CAISO backstop procurement.<sup>4</sup> As TURN explained, differing requirements by the ED and CAISO can lead to over-procurement if the LSEs contract for ED requirements that are higher than the CAISO’s need requirements, and could lead to backstop procurement by the CAISO if LSE compliance with ED requirements falls short of CAISO’s reliability needs.<sup>5</sup> Pacific Gas and Electric Company (PG&E) stated that “it is critical that the Commission’s and the CAISO’s frameworks be consistent”.<sup>6</sup> San Diego Gas & Electric Company (SDG&E) comments that “[a]ny divergence between the two programs can lead to inefficient, ineffective and/or uneconomic procurement of resources.”<sup>7</sup> Regarding the lack of clear regulations in the proposals and the lack of time for stakeholder input, the Alliance for Retail Energy Markets (AReM) stated that it “cannot stress enough the difficult predicament that both the Commission and CAISO are creating” for market participants.<sup>8</sup> The creation of new and complex regulations for a flexible capacity framework is important and should not unnecessarily create additional complications by the adoption of differing policies by the Commission and the CAISO.

In addition, AReM’s comments call attention to difficulty in creating a flexible capacity framework “without sufficient time for market participants to understand.”<sup>9</sup> ORA shares concerns expressed by participants at the workshop that stakeholder input has been hampered by a lack of information and last minute revisions and filings. For example, the flexible capacity process will not include a draft for stakeholder comments and the submission of the final flexible capacity study proposed by CAISO to be released either May 1 or May 2, 2014, will not allow

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<sup>4</sup> TURN Comments, pp. 4-5.

<sup>5</sup> Ibid.

<sup>6</sup> PGE Comments, p. 6.

<sup>7</sup> SDG&E Comments, p. 2.

<sup>8</sup> AReM Comments, p. 2.

<sup>9</sup> AReM Comments, p. 2.

time for adequate stakeholder input ahead of the Commission’s Proposed Decision later in May. AReM correctly notes that “[g]iven [several] unresolved issues that does not seem realistic.”<sup>10</sup>

**B. Many parties agree that categories of flexible capacity procurement should be deferred to 2016 to allow further evaluation and alignment on the issues.**

ORA’s prior recommendation<sup>11</sup> to defer adopting flexible procurement categories for 2015 is supported by party comments. Differences still remain between the CAISO and ED proposals on this issue. PG&E “urges that the Commission and CAISO approaches be aligned.”<sup>12</sup> TURN stated that without resolution of the differences in the computation of the categories for flexible capacity, “this aspect of the flexible procurement requirements could safely be deferred until 2016.”<sup>13</sup> Marin Clean Energy (MCE) also supports consideration of “delaying flexible capacity categorization at least from 2015 to 2016.”<sup>14</sup> Stakeholders should be allowed ample time to evaluate final category proposals ahead of a Commission decision. Parties will not have a consensus proposal by the ED staff and the CAISO on categorization prior to the release of CAISO’s final flexibility requirements study (released on May 1 or 2) and a revision of the ED proposal. At best, there will only be a week or two for parties to respond and allow the ALJ to meet a May 28 deadline for issuance of a Proposed Decision. Furthermore, no evidence has been provided that there is a near-term reliability risk that requires categories in 2015.

**C. A flexible capacity must offer obligation must be in place to ensure that flexible capacity will be available when needed; thus, mandatory flexible capacity procurement should be implemented after adoption of an enhanced MOO.**

ORA previously recommended deferring the adoption of mandatory flexible capacity requirements until an enhanced MOO is in place. Workshop comments from several parties

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<sup>10</sup> AReM Comments, pp. 3-4.

<sup>11</sup> Comments of the Office of Ratepayer Advocates on Staff Proposal on the Implementation of the Flexible Capacity Procurement Framework, March 24, 2014, pp. 3-4.

<sup>12</sup> PG&E Comments, p. 10.

<sup>13</sup> TURN Comments, p. 5.

<sup>14</sup> MCE Comments, p. 4. MCE mistakenly refers to the proposal as being offered by TURN rather than ORA.

called for the Commission to defer mandatory flexible capacity obligations.<sup>15</sup> In sum, party comments suggest that more time is needed to further refine the flexible capacity framework, no need for flexible capacity requirements in 2015 has been demonstrated, and there is a potential for ratepayer costs to unnecessarily increase. Shell Energy North America (US), L.P. (Shell Energy) stated that nothing has been presented to date that “suggests that a costly and burdensome flexible capacity procurement obligation is necessary for the 2015 compliance year.”<sup>16</sup> The information to date on flexible capacity showings from the 2014 load serving entities’ (LSE) RA annual and monthly filings have not been provided to parties and thus no conclusions can be drawn on the need for 2015 flexible requirements based on current procurement. Rather than stressing a need for flexible capacity requirements in 2015, the CAISO’s comments primarily argue for 2015 flexible capacity requirements to put a flexible capacity program in place ahead of when it is needed in future years.<sup>17</sup> Unfortunately, ratepayers will pay the costs of flexible capacity requirements once initiated. A case has not been made that the current policy of LSE reporting of flexible capacity without mandatory requirements will be unable to advance the flexible program development without costly requirements.

ORA continues to strongly oppose mandatory flexible capacity obligations without the enhanced MOO which is necessary to provide what the CAISO says it needs. As the time for a June 2014 RA decision rapidly approaches, it becomes less likely that a tariff for the enhanced MOO (still not filed by the CAISO) will be approved by the FERC prior to the adoption of the CPUC’s scheduled June 2014 RA decision. Without the enhanced MOO, the flexible capacity is not guaranteed to be available and the goal of increased grid reliability will not be achieved. Ratepayers should not pay for flexible capacity requirements that do not produce reliability benefits.

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<sup>15</sup> Shell Energy Comments, p. 1; Marin Clean Energy Comments, p. 3; and AReM Comments, p. 10.

<sup>16</sup> Shell Energy Comments, p. 1.

<sup>17</sup> CAISO Comments, p. 3.

### III. CONCLUSION

ORA respectfully requests that the Commission consider ORA's comments in adopting modifications to the RA program for RA requirements in 2015.

Respectfully submitted,

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