

**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

R.11-10-023

**APPLICATION FOR REHEARING OF  
THE ENERGY PRODUCERS AND USERS COALITION AND  
THE COGENERATION ASSOCIATION OF CALIFORNIA**

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July 30, 2014

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The Cogeneration Association of California (CAC)<sup>1</sup> and the Energy Producers and Users Coalition (EPUC),<sup>2</sup> (the CHP Parties) hereby apply for rehearing of the *Decision Adopting Local Procurement and Flexible Capacity Obligations for 2015 (“the Decision”)*.<sup>3</sup>

The Decision resolved many issues affecting CHP facilities, consistent both with the QF/CHP Settlement<sup>4</sup> and with California’s commitment to encourage the development of CHP. There remain, however, two issues that

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<sup>1</sup> CAC represents the combined heat and power and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.

<sup>2</sup> EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP West Coast Products LLC, Chevron U.S.A. Inc., Phillips 66 Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

<sup>3</sup> Decision 14-06-050, adopted June 26, 2014 and served July 1, 2014.

<sup>4</sup> Decision Adopting Propose Settlement, D.10-12-035, Docket 08-11-001, December 16, 2010.

require clarification, for the benefit not only of CHP facilities, but the entire industry. The two clarifications are:

1. In adopting a flexible capacity requirement, the Commission should specify that existing Resource Adequacy contracts will be deemed to supply generic RA capacity unless the parties agree otherwise. This important clarification will assure that the distinct Flexible Capacity product is not incorporated inappropriately into the definition of the generic Resource Adequacy product.
2. The Decision adopted the CAISO's suggested language that a replacement obligation would be subject to the CAISO tariff and FERC orders. The Decision should also condition the obligation on CPUC orders in order to give force and effect to the CPUC's decisions relative to Resource Adequacy.

#### **I. CLARIFICATION OF OBLIGATIONS UNDER EXISTING RA CONTRACTS**

It is important for the parties to an RA transaction to differentiate generic Resource Adequacy capacity from flexible capacity. The two products impose very different rights and obligations on the supplier. Although the Decision addresses this issue with regard to new contracts, it does not address characterization of existing contracts. Reliance on bilateral negotiations would not seem workable or guaranteed to produce a result. The Decision should provide a default in the event the parties cannot affirmatively address the issue. The RA capacity supplied under existing contracts should be deemed to be generic RA capacity unless the parties otherwise agree. A conclusion of law should be added to the Decision:

COL #: Commitments to supply resource adequacy capacity entered into prior to the date of this decision shall be deemed to supply generic RA capacity unless the parties otherwise agree.

## II. REPLACEMENT REQUIREMENTS SHOULD ALSO BE SUBJECT TO CPUC DECISIONS

With regard to obligations to replace RA capacity in case of outages, the Decision accepted the CAISO's suggested language that

*For scheduled outages that are approved after the compliance filing due date the Scheduling Coordinator of the resource will still be responsible for outage replacement to the extent required by the CAISO tariff rules and FERC orders.<sup>5</sup>*

The CHP Parties supported this language as a positive step in their comments on the Proposed Decision, but proposed including CPUC decisions as an additional source of requirements.<sup>6</sup> The sentence should read "... to the extent required by the CAISO tariff rules, and FERC orders, or CPUC decisions." The Decision did not address this proposed addition. CPUC decisions are an important part of the requirements and limitations on resource procurement. They should be regarded as having equal priority with the CAISO Tariff and FERC decisions as they apply to satisfying procurement needs. This is particularly important with regard to CHP procurement where most of the terms and conditions for CHP procurement will be set by CPUC decision, rather than by either CAISO tariffs or FERC orders. For instance, the CPUC decisions approving the QF/CHP Settlement impose critical conditions on the rights and obligations of both the CHP facilities and the buyers. Those decisions must be part of the collection of rights and obligations that condition any replacement requirement.

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<sup>5</sup> *Decision*, p. 50.

<sup>6</sup> *CHP Parties' Comments on Proposed Decision*, p. 6.

The revised Staff RA Refinement Proposal as adopted by the Decision should be revised to read:

*For scheduled outages that are approved after the compliance filing due date, the Scheduling Coordinator of the resource will still be responsible for outage replacement to the extent required by the CAISO tariff rules, ~~and~~ FERC orders or CPUC decisions.*

### III. CONCLUSION

For the reasons stated above, the Decision should be revised as follows to clarify the implementation of the RA refinements contained therein:

1. The conclusions of law should be revised to add:

*Commitments to supply resource adequacy capacity entered into prior to the date of this decision shall be deemed to supply generic RA capacity unless the parties otherwise agree.*

2. The revised Staff RA Refinement Proposal as adopted by the Decision should be revised to read:

*For scheduled outages that are approved after the compliance filing due date, the Scheduling Coordinator of the resource will still be responsible for outage replacement to the extent required by the CAISO tariff rules, ~~and~~ FERC orders or CPUC decisions.*

Respectfully submitted,



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July 30, 2014