

**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
(Filed October 20, 2011)

**RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
TO THE APPLICATION FOR REHEARING OF
THE ENERGY PRODUCERS AND USERS COALITION AND THE
COGENERATION ASSOCIATION OF CALIFORNIA**

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Dated: August 14, 2014

Pursuant to Rule 16.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) provides this response to the application for rehearing of Decision (D.)14-06-050 filed by the Energy Producers and Users Coalition and the Cogeneration Association of California (collectively the "CHP Parties").

The CHP Parties have not identified any legal error in D.14-06-050. Therefore, the Commission should deny their application for rehearing.

I. THE COMMISSION SHOULD REJECT THE CHP PARTIES' REQUEST TO "DEEM" THAT EXISTING RESOURCE ADEQUACY CONTRACTS ADDRESS ONLY GENERIC RESOURCE ADEQUACY, NOT FLEXIBLE RESOURCE ADEQUACY

In their application for rehearing the CHP Parties request that the Commission interject itself into existing procurement contracts by proclaiming that existing resource adequacy (RA) contracts should be "deemed" to supply generic RA capacity only, not flexible RA.^{1/} The Commission should not do so.

In their comments on the proposed decision, the CHP Parties requested that the proposed decision be modified in this manner.^{2/} The Commission declined to do so. The CHP Parties offer nothing new in their renewed request, so the Commission should reject it again. First, the CHP Parties do not even attempt to argue that D.14-06-050 as written is legally deficient. It is not. For this reason alone, this aspect of the CHP Parties' application for rehearing should be rejected.

Second, the CHP Parties' proposed change does not make sense from a policy perspective. The Commission should not issue a blanket declaration that all existing RA contracts will be "deemed" to address only generic RA, and do not cover flexible RA. Existing contracts speak for themselves. The parties to such contracts bargained and negotiated to

^{1/} CHP Parties Application for Rehearing, p. 2.

^{2/} CHP Parties Comments, pp. 8-9.

procure certain product and related rights and obligations. The Commission should not impose any particular term or condition on parties to a contract in which the parties engaged in negotiations and have bargained for certain contract rights, terms, and obligations. The parties to existing contracts should be left to address their respective rights or obligations with respect to resources' flexible RA attributes.

In summary, the CHP Parties have not pointed to any legal error, and their proposal does not make sense from a policy perspective. This aspect of the application for rehearing should be denied.

II. THE COMMISSION SHOULD REJECT THE CHP PARTIES' REQUEST TO ADD LANGUAGE TO THE DECISION VAGUELY ASSERTING THAT THE COMMISSION HAS JURISDICTION OVER THE SCHEDULED OUTAGE REPLACEMENT RULES FOR RESOURCE ADEQUACY RESOURCES

In their application for rehearing, the CHP Parties also request that the Commission modify D.14-06-050 to indicate that not only the CAISO tariff, but also Commission decisions, establish the RA replacement rules for resources on scheduled outages.^{3/} Again, the CHP Parties fail to show any legal error in the decision. Further, under the current RA program the scheduled outage replacement rules are established by the CAISO tariff, not Commission decisions. Therefore, this request should be rejected.

In their comments on the proposed decision, the CHP Parties proposed that special scheduled outage replacement rules be adopted for resources that have "unit contingent" contracts with a load serving entity.^{4/} Such rules would effectively excuse a resource from scheduled outage replacement obligations that it would otherwise have if the resource is committed to provide RA capacity into the CAISO markets. The Commission did not adopt this proposal in its final decision.

Now, in their application for rehearing, the CHP Parties no longer ask the Commission to

^{3/} CHP Parties Application for Rehearing, pp. 3-4.

^{4/} CHP Parties Comments, pp. 5-6.

adopt a specific exemption. Rather they ask the Commission to modify the decision to include language indicating that the Commission has the authority to set scheduled outage RA replacement rules. This proposal, too, should be rejected. When the Commission considers a specific proposal from the CHP Parties or any other party relating to scheduled outage RA replacement rules, one of the factors the Commission must consider is the extent to which the proposal is consistent with the current division of responsibility between the Commission and the CAISO for the various aspects of the RA program. Currently, the CAISO has responsibility over scheduled outage replacement requirements. There is nothing to be gained, and only confusion to be added, by adopting the CHP Parties' proposed language modification, which would vaguely indicate Commission authority in this area, when the Commission does not have any specific scheduled outage RA replacement proposal under consideration.

III. CONCLUSION

For the foregoing reasons, PG&E respectfully requests that the Commission deny the application for rehearing of D.14-06-050 filed by CHP Parties.

Respectfully Submitted,

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