

**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 and Flexible Procurement Obligations for the 2016 and 2017 Compliance Years.

Rulemaking 14-10-010
(Filed October 16, 2014)

**REPLY COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON FINAL PHASE 3
PROPOSALS**

**INDEPENDENT ENERGY PRODUCERS
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Dated: March 24, 2017

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As authorized by the *Assigned Commissioner and Administrative Law Judge's Phase 3 Scoping Memo and Ruling*, issued on September 13, 2016, the Independent Energy Producers Association (IEP) offers its reply to parties' comments submitted on March 10, 2017, on Final Phase 3 Proposals.

I. THE COMMISSION SHOULD ADOPT AN EFFECTIVE LOAD-CARRYING CAPACITY (ELCC) METHODOLOGY

Several parties recommend that the Commission should adopt a transition period for implementing new capacity values for wind and solar.¹ Essentially, these parties seek to defer a final decision on the ELCC methodology until 2018-2019 or later. IEP opposes any proposal to delay adopting an ELCC methodology beyond Phase 3. As the California Wind Energy Association noted, five years have passed since the July 1, 2011, deadline the Legislature established in Senate Bill X1-2 (2011) for the Commission to determine the ELCC of wind and

¹ PG&E Comments, p. 6; ORA Comments, pp. 17-18; SCE Comments, p. 4.

solar energy resources.² Moreover, as noted by the California Independent System Operator (CAISO), any further delay would inappropriately allow load-serving entities (LSEs) to continue overvaluing the capacity of certain resources, potentially resulting in insufficient Resource Adequacy (RA) capacity when and where needed.³ It is time to move forward.

The Commission should adopt in Phase 3 an ELCC methodology that is transparent, that produces reasonably stable and consistent results, and that is reasonably aligned with the planning efforts employed by other key agencies such as the demand forecast developed by the California Energy Commission (CEC). In its Phase 3 decision, the Commission should:

- 1. Adopt the Calpine/E3 methodology.** IEP is not necessarily opposed to the Energy Division (ED) methodology. As noted by San Diego Gas & Electric Company (SDG&E), the results of the ED approach and the Calpine/E3 approach are converging significantly.⁴ However, the Calpine/E3 methodology appears better aligned with the principles of transparency and ease of stakeholder operation (for purposes of replication). It is also more closely matched to the demand forecasting techniques employed by the CEC.
- 2. Identify outstanding issues that require further study and analysis, and determine that these issues will be addressed in the next RA proceeding.** A number of refinements undoubtedly will be required to improve the ELCC methodology (*e.g.*, whether or not to vintage resources). These issues should be highlighted and prioritized for resolution in the next RA proceeding.

² Pub. Util. Code § 399.26(d).

³ CAISO Comments, pp. 3-4.

⁴ SDG&E Comments, p. 2.

II. THE COMMISSION SHOULD ADOPT A MULTIYEAR RA FRAMEWORK IN PHASE 3

Some parties have urged the Commission to delay action on adopting any aspect of a multiyear forward RA framework. Pacific Gas & Electric Company (PG&E), for example, suggests that the Commission should delay adopting a multiyear RA framework because multiyear forward contracting is already occurring.⁵

PG&E's recommendation to delay action is misguided for a number of reasons. First, "An Assessment of Capacity Under Contract," the Staff Paper issued on December 22, 2016, provides little guidance about whether all LSEs have adequately contracted RA resources three and five years forward, particularly in light of the potential for significant shifts in load and resources over the next three to five years that IEP has highlighted. Second, while the Staff Paper shows that LSEs as a whole had procured modest amounts of forward RA capacity as of October 2015, the Staff Paper also demonstrates that significant challenges to maintaining adequate RA capacity could emerge precipitously. For example, as of October 2015, "[t]he majority of forward contracted capacity comes from fossil resources."⁶ By 2025, however, "the net amount of fossil capacity available to the system in 2016 is reduced by 9,212 MW," even after accounting for planned replacement generation.⁷ Moreover, IEP reported that procurement of System RA capacity two years forward declined by nearly 12 percentage points in less than 18 months.⁸ Finally, as discussed at the Commission's En Banc hearing on Community Choice Aggregation (CCA) held on February 1, 2017, the utilities indicate that 40% to 60% of their existing load may depart in the near future due to CCA formation and expansion.

⁵ PG&E Comments, p. 18.

⁶ Staff Paper, p. 10.

⁷ Staff Paper, p. 14.

⁸ Comments of the Independent Energy Producers Association on the Staff Assessment of Capacity Under Contract, January 16, 2017.

The Office of Ratepayer Advocates (ORA) suggests that the existing RA framework should not be altered without first clearly defining the existence and extent of any future capacity shortage.⁹ IEP agrees that it is important to define the existence and extent of future capacity shortages, but ORA is missing the fundamental point: the purpose for adopting a multiyear RA framework is to identify the existence and extent of any future capacity shortages—precisely what ORA seeks.

In light of a highly volatile environment in which load can shift rapidly among LSEs and capacity resources are anticipated to shut down or withdraw from the market, the critical question confronting the Commission regarding resource adequacy is: who will procure needed RA capacity and when will they procure it? A multiyear RA framework will help the Commission determine, in a transparent and consistent manner, whether an RA procurement gap is likely to arise in the near future.

Thus, the primary issue confronting the Commission is whether a multiyear framework should include a multiyear RA reporting obligation supplemented by a multiyear RA procurement obligation.

A. Multiyear Reporting Obligation

Many parties support IEP's proposal for a multiyear forward RA reporting obligation.¹⁰

The parties raising concerns about a multiyear RA framework primarily claim that a multiyear forward reporting obligation is duplicative, is an administrative burden, would

⁹ ORA Comments, p. 1.

¹⁰ TURN Comments, p. 13; CAISO Comments, p. 5; Calpine Comments, p. 16; NRG Energy, Inc. Comments, p. 4; CLECA Comments, p. 22.

provide no additional value, or is not in the public interest.¹¹ IEP has two observations in response to these comments.

First, with regard to the issue of redundancy, if the data is already collected in the annual RA filings submitted by all Commission-jurisdictional LSEs, then it certainly is not too much of a burden to submit this data in a format that ED can use to develop an annual report on forward procurement of RA capacity.

Second, to the extent that these data are not already provided in the annual RA filing, imposing a multiyear forward RA reporting obligation on jurisdictional LSEs will have multiple benefits, including (a) reducing the administrative burden and costs currently borne by ED to compile this information, by eliminating the need for data requests; (b) helping ensure timely and consistent annual reporting across all jurisdictional LSEs; and (c) ensuring that the Commission can produce a report on a consistent annual basis not dependent on the availability of staff resources in any one year.

Some parties argue that a multiyear forward reporting obligation is unnecessary because the Energy Division has demonstrated its ability to monitor the issue and collect the required information through data requests.¹² However, the reporting by the Energy Division has been sporadic. No assurance exists that the ED will have the resources each year to issue the data requests, conduct the necessary follow-up with LSEs, and meld the information into a common reporting format. Imposing a reporting obligation directly on jurisdictional LSEs in a format desired by the ED will help standardize the reporting, reduce the administrative burden imposed on the ED, and lower administrative costs while improving overall transparency.

¹¹ ORA Comments, p. 3; Sonoma Clean Power Comments, p. 3; PG&E Comments, pp. 17-18; Shell Energy Comments, p. 3; AReM Comments, p. 3; SDG&E Comments, pp. 5-6.

¹² ORA Comments, p. 3; Sonoma Clean Energy Comments, p. 3; PG&E Comments, pp. 17-18.

ORA and others argue that a multiyear forward RA reporting obligation is premature, particularly in the absence of information suggesting a need.¹³ However, the proposed multiyear forward RA Report is designed to inform the Commission of impending need before the need arises. It is not designed to inform the Commission that a need is already upon us.

In summary, a multiyear RA reporting obligation not redundant, and it will provide invaluable information over the mid-term that is not apparent today and certainly is not available through the Commission's Long-Term Procurement Plan/Integrated Resource Plan proceeding. Moreover, a multiyear RA reporting obligation will ensure a greater level of transparency and consistency in reporting of RA contracted resources; it will lessen the administrative imposed on LSEs as the reporting becomes routine; and it will ensure a measure of consistency in reporting that is not currently present.

B. Multiyear Procurement Obligation

Separate from a multiyear RA reporting obligation, IEP's Final Phase 3 Proposal urges the Commission to provide in policy guidance about the appropriate level of RA capacity that ought to be procured three and five years forward. Some parties have incorrectly conflated that policy guidance with a procurement obligation.¹⁴ At a minimum, the Commission should provide guidance related to the level of forward RA capacity procurement that it determines is needed to help ensure grid reliability. The Commission can use the reporting obligation guidance to assess procurement performance of individual LSEs, track their performance over time in light of changing load and resource patterns, and determine whether or not to adopt a procurement obligation.

¹³ ORA Comments, p. 1; PG&E Comments, p. 18.

¹⁴ SDG&E Comments, p. 6.

Cogentrix's Final Proposal included a multiyear procurement obligation spanning five years. Cogentrix also proposed that the Commission and the CAISO should refine criteria for the provision of flexible RA capacity. In response, CLECA recommends that the Commission and CAISO should consider further specifications for fast-start flexible resources for RA Compliance Year 2019.¹⁵ In light of parties' comments, the Commission can and should consider whether a multiyear procurement obligation should be adopted in Phase 3, irrespective of whether further specification of fast-start flexible resources has been accomplished, or should be deferred until the next RA proceeding.

Some parties oppose adopting a multiyear forward RA procurement obligation, arguing that such a requirement is either premature or unnecessary.¹⁶ Moreover, it has been suggested that the Commission should consider this matter in the future after having conducted further assessments.¹⁷ While IEP appreciates the need for assessments to determine future RA procurement obligations, the Commission can determine in Phase 3, as a matter of policy, that it is reasonable to impose an obligation on LSEs to procure forward a sufficient percentage of forecasted RA need. Recognizing that further specification of the flexible requirements may be needed, IEP is not convinced that additional studies will illuminate or change the fundamental facts that there is a significant risk of an RA procurement gap due to significant shifts in load patterns anticipated in the near future among LSEs and a risk of significant capacity departing the grid due to once-through cooling requirements and Diablo Canyon retirement. RA capacity requirements will also be affected by implementation of the new ELCC methodology. Thus, the

¹⁵ CLECA Comments, p. 23.

¹⁶ SCE Comments, p. 5; ORA Comments, p. 2.

¹⁷ CLECA Comments, p. 23.

underlying rationale for imposing a multiyear procurement obligation remains: to ensure that each LSE is suitably contracted to meet RA capacity needs over three to five years.

Some parties argue that a multiyear forward RA procurement obligation is not needed because the Staff Paper does not indicate any immediate need for IEP provided more recent data on the extent of CCA departure, the risk of capacity withdrawal, and similar factors. Moreover, the Commission's CCA En Banc hearing revealed that the risk to utilities of future departing load ranged from 40% to 60% of existing load. PG&E has indicated to the Commission in another context that CCAs may capture 80% of retail load.¹⁸

Sonoma Clean Power states that a multiyear procurement requirement would be detrimental to competition, because CCAs are already acquiring needed capacity.¹⁹ If it is true that the CCAs are actually procuring resources to meet the forecasted RA need, then the policy would have little effect on CCAs.²⁰ On the other hand, if an individual CCA (or other LSE) is not meeting its forward obligation (as adopted by the Commission), then the forward procurement obligation would have an effect: presumably, the CCA/LSE would remedy the shortage with additional procurement or replacement resources consistent with existing RA rules. Moreover, as this requirement would be imposed on all LSEs, it is not obvious that CCAs would be competitively harmed if their load is relatively stable. If CCA load is not relatively stable, that is all the more reason for the Commission to more closely monitor the state of RA procurement.

¹⁸ See Pacific Gas and Electric Company Notice of Ex Parte Communication. A.16-06-003, Jan. 27, 2017.

¹⁹ Sonoma Clean Power Comments, p. 4.

²⁰ In IEP's Final Proposal, the procurement targets were set in Year 1 at 95% forward (*i.e.*, the status quo) declining on a straight-line basis to Year 5 where the obligation was set at 50%. This declining forward trajectory mirrors closely the forward contracting amounts presented in the Staff Paper.

III. CONCLUSION

IEP's Final Proposal to establish a multiyear RA framework in Phase 3 is a measured, reasonable approach to ensuring overall grid reliability in light of the volatile shifts in load expected to occur over the next three to five years. IEP's Final Proposal has two primary components. First, the Commission should adopt a multiyear forward reporting obligation. The purpose is to ensure consistent data are submitted the Commission annually to keep the Commission and stakeholders informed about whether an RA shortage exists over the mid-term. Second, the Commission should as a matter of policy establish guidelines for forward RA procurement. It would also be reasonable for the Commission to move forward in Phase 3 to (a) adopt a multiyear forward RA procurement obligation for all jurisdictional LSEs; (b) establish at what level the forward RA procurement obligation shall be set by year (as a percentage of forecasted RA capacity need); and (c) identify further refinements that will be addressed in the next RA proceeding.

Under this approach, IEP anticipates little change in current procurement practices, but the Commission will have a significantly better understanding of the state of RA capacity procurement and a much better sense of the underlying risks to grid reliability in the next three to five years.

Respectfully submitted March 24, 2017, at San Francisco, California.

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