

**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 2019 and 2020 Compliance Years.

Rulemaking 17-09-020
(Filed September 28, 2017)

**COMMENTS OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION ON THE ORDER
INSTITUTING RULEMAKING**

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The Order instituting this proceeding invited comments on various potential issues, including refinements to elements of the Commission’s Resource Adequacy (RA) program. The Order invited parties to identify and prioritize no more than ten issues, including issues identified in the previous RA proceeding (Rulemaking (R.) 14-10-010) but not resolved in Decision (D.) 17-06-027, the decision closing R.14-10-010.

In response to the Order’s invitations, the Independent Energy Producers Association (IEP) offers its comments on refinements to RA program elements. IEP identifies only one issue, which should be given the Commission’s highest priority: ***Should the Commission adopt a multiyear forward procurement requirement for RA capacity?***

The issue of whether to adopt a multiyear RA requirement was most recently considered in Phase 3 of R.14-10-010. The Assigned Commissioner and Administrative Law Judge’s Phase 3 Scoping Memo and Ruling, issued on September 13, 2016, included multiyear RA reporting and procurement as an issue for Phase 3 of that proceeding. The ruling stated, “In order to inform the Commission’s consideration of multi-year RA, we ask the advisory Staff to

issue a report addressing the status of forward capacity procurement. Following that report, we will consider party comments and proposals on multi-year RA.” The Staff circulated its draft report, “An Assessment of Capacity Under Contract,” on December 22, 2016, and parties filed comments on Staff’s draft assessment on February 16, 2017, followed by parties’ final multiyear RA requirement proposals on February 24, 2017.

However, D.17-06-027 did not resolve this issue. Based on a previous Commission determination that a multiyear RA requirement should be considered only after the development of a durable flexible capacity requirement (FCR) program, D.17-06-027 stated:

Since we are not adopting a durable FCR program at this time . . . , we do not adopt a multi-year RA requirement here, nor do we address the substantive issues relating to such a requirement. In future RA proceedings the Commission may re-examine whether a durable FCR program should continue to be a prerequisite to adoption of a multi-year RA requirement.

A multiyear RA requirement is ripe for the Commission’s consideration in this proceeding, regardless of whether the Commission is able to adopt a durable FCR in this proceeding.

I. A MULTIYEAR RA REQUIREMENT SHOULD BE CONSIDERED IN THIS PROCEEDING

The issue of whether to adopt a multiyear RA requirement as a matter of policy has been before the Commission for several years. Over seven years ago, in D.10-06-018, the Commission noted the potential benefits of a multiyear forward RA requirement:

A multi-year forward commitment has the potential to provide important reliability benefits. It would provide advance knowledge of impending reliability problems, years ahead of delivery, allowing planners to address those problems in a timely, cost-effective manner. Additionally, a multi-year forward commitment would be expected to stimulate merchant generator investment, supporting our policy not to rely solely on Commission-directed forward procurement by IOUs to provide the investment needed for new generation. Further, as the CAISO points out, a multi-year

forward commitment would promote competition between new and existing resources as well as competition between transmission upgrades and generation supply additions. Such competition could yield more cost-effective outcomes. Having generation investment commitments made years in advance should also promote more cost-effective backstop procurement decisions. Finally, as CUE notes, a multi-year forward RA commitment applicable to all LSEs could be an effective way to ensure that all market participants shoulder the burden of promoting investment, which in turn would help to achieve the equitable allocation objective.¹

Despite its acknowledgment of these benefits, the Commission in 2010 concluded that it was “not ready” to implement a multiyear forward RA obligation, and it relegated the multiyear RA concept to further study, concluding that “the Commission may choose to include in an appropriate proceeding consideration of the issue of whether and how to implement such a forward procurement obligation upon all LSEs.”

This is that “appropriate proceeding.” As IEP has described in multiple filings in R.14-10-010,² an array of uncertainties now confront the Commission, including the explosive growth of Community Choice Aggregation (CCA) and associated shifts of retail customers and load, increasing reliance on emerging technologies with limited operational track records, the growth of behind-the-meter generation not susceptible to control by the California Independent System Operator (CAISO), recent adoption of an Effective Load Carrying Capacity methodology for calculating the Net Qualifying Capacity of wind and solar resources, and the premature

¹ D.10-06-018, pp. 32-33.

² *E.g.*, Motion of the Independent Energy Producers Association To Amend the Phase 2 Scoping Memo and Ruling, Jan. 29, 2016; Preliminary Phase 3 Proposals of the Independent Energy Producers Association, Dec. 16, 2016; Comments of the Independent Energy Producers Association on Preliminary Phase 3 Proposals, Jan. 13, 2017; Final Phase 3 Proposals of the Independent Energy Producers Association, Feb. 24, 2017; Reply Comments of the Independent Energy Producers Association on Final Phase 3 Proposals, Mar. 24, 2017; Comments of the Independent Energy Producers Association on the Proposed Decision Adopting Local and Flexible Capacity Obligations for 2018 and Refining the Resource Adequacy Program, June 1, 2017; Reply of the Independent Energy Producers Association to Comments on the Proposed Decision Adopting Local and Flexible Capacity Obligations for 2018 and Refining the Resource Adequacy Program, June 19, 2017.

retirement of existing thermal capacity. These uncertainties create a risk that capacity needed in the near future may not be available when and where it is needed. The current 1-year forward RA procurement requirement leaves the Commission with little ability to respond to capacity problems that lie just beyond the 1-year horizon.

IEP is particularly concerned that the rapid rise of CCAs could undermine timely procurement because of the volatility and related variability of load among the LSEs. The utilities view future CCA formation as a significant threat, and this threat of future load departure leaves the utilities reluctant to enter into forward procurement of capacity to meet demand that may not materialize in the form of bundled customer demand. The utilities do not have an incentive to procure capacity to meet the needs of customers they conclude they are unlikely to serve, even if additional procurement is clearly needed to help ensure a reliable grid. Similarly, electric service providers (ESPs) and emerging CCAs may be uncertain about future load and equally reluctant to enter into longer-term capacity commitments.

However, on a systemwide basis, this “departing” load is not disappearing; the identity of the retail provider of power to meet this load would simply shift from the utilities to another LSE. If the utility currently serving the load declines to procure RA capacity for that potentially departing load, and there is no current or future CCA or ESP procuring capacity to serve that future departing load, then a procurement gap that could affect reliability will result.

II. A MULTIYEAR RESOURCE ADEQUACY FRAMEWORK DOES NOT DEPEND ON A DURABLE FLEXIBLE CAPACITY REQUIREMENT

D.17-06-027 declined to adopt a multiyear requirement in large part because the Commission deferred consideration of a multiyear RA requirement in an earlier proceeding on

the ground that a “durable” flexible capacity requirement must precede a multiyear RA requirement.³

However, a multiyear RA framework is not dependent on finalization of a durable flexible capacity requirement. While a durable FCR may be laudable as a policy objective, realizing a “durable” FCR may be unachievable due to the dynamic nature of the electric grid. It is precisely because of the dynamic nature of the electric grid, and the risks of a procurement gap, that the adoption of a durable FCR should be uncoupled from consideration of a multiyear RA requirement. To the extent that RA obligations or RA product definitions change over time (*e.g.*, as a result of the adoption of a durable FCR), then these changes need to be integrated into a multiyear RA framework. The policy of whether to adopt a multiyear RA requirement for LSEs need not and should not be dependent on a “final” determination of RA product definitions that may necessarily change as conditions on the grid change.

Moreover, the general contours of needed flexibility are unlikely to change precipitously. Consequently, LSEs should not avoid forward procurement of modest amounts of flexible capacity as currently defined. If anything, the CAISO’s recent experience (including an upward 3-hour ramp of 12,960 MW on Sunday, December 18, 2016) suggests that procurement of higher levels of flexible capacity—however defined— will be needed sooner than expected. In other words, the electric grid is unlikely to require less flexibility in the future, and forward procurement of relatively more flexible resources is almost certain to benefit the grid and help maintain reliability.

III. CONCLUSION

For the reasons stated in these comments, IEP respectfully urges the Assigned Commissioner and Administrative Law Judge to include the following issue within the scope of

³ D.17-06-027, pp. 17-18, citing D.16-01-033.

this proceeding: “Should the Commission adopt a multiyear forward procurement requirement for RA capacity?”

Respectfully submitted October 30, 2017, at San Francisco, California.

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