

**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)

**PROPOSAL OF THE INDEPENDENT ENERGY
PRODUCERS ASSOCIATION FOR MULTI-YEAR
RESOURCE ADEQUACY FRAMEWORK**

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The Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (Scoping Memo) issued January 18, 2018, established two procedural tracks for considering Resource Adequacy (RA) matters in 2018. Track 1, scheduled to be completed by June 2018, addresses RA capacity requirements for the following year and time-sensitive refinements to the RA program, including RA reforms necessary to maintain reliability while reducing costly backstop procurement (*e.g.*, consideration of a multi-year procurement framework, consideration of central buyers). Track 2, scheduled to be completed by the end of 2018, encompasses more complex and less time-sensitive modifications and refinements to the RA program, including adopting multi-year RA requirements (only if a multi-year RA framework is adopted in Track 1).

The Scoping Memo solicited parties' proposals for additional changes to the RA program to be considered for the 2019 compliance year. In response, IEP submits its proposal

for a multi-year RA framework for local and flexible RA capacity to be considered in Track 1.¹ As a preliminary matter, IEP first notes that adoption of a multi-year framework for local and flexible RA does not impede the Commission's ability to refine the RA program in the future, including Track 2 reforms considered in the current proceeding. Second, adoption of a multi-year framework does not impose costs on bundled customers of investor-owned utilities (IOUs) unless those costs are allocated inconsistently with the Commission's non-bypassable charge mechanism. Third, adoption of a multi-year framework does not create barriers to Community Choice Aggregation (CCA) or Electric Service Provider (ESP) formation beyond those that already exist.

IEP proposes that if a Commission-jurisdictional load-serving entity (LSE) procures resources to meet a forward RA obligation, the procurement should count toward meeting an LSE's forward RA obligation for the duration of the multi-year compliance period. Alternatively, if the Commission determines that the costs and RA benefits associated with an RA contract are to be allocated among all beneficiaries, then the costs and benefits of the contract will be allocated consistent with Commission-approved cost allocation mechanisms in use at that time.

I. BACKGROUND

The Commission adopted the existing bilateral approach to resource adequacy in 2010.² At that time, the Commission noted that the addition of a required multi-year forward capacity commitment to the RA program would potentially provide reliability and other benefits,

¹ The Scoping Memo includes "top priority modifications" to the RA program within the scope of Track 1, including a multi-year procurement framework for local RA (p. 6). The IEP Proposal focuses on a multi-year forward framework for local and flexible capacity because of the importance of local and flexible RA in meeting near-term reliability needs. To be clear, IEP also supports consideration of a multi-year forward *system* RA commitment as a complement to a multi-year forward local and flexible RA commitment.

² Decision (D.)10-06-018.

but the Commission determined that it was premature to conclude that the benefits could not be achieved under the then-existing RA program.³ Nearly eight years have passed since D.10-06-018 was adopted, and recent events demonstrate that a multi-year forward capacity commitment is needed more than ever to enhance reliability and provide other benefits.

The Commission's determination to address time-sensitive modifications in Track 1 is welcome. Multiple phenomena are disrupting markets and potentially undermining grid reliability. First, the incidence of backstop capacity procurement to meet RA and reliability needs appears to be increasing.⁴ Second, the rapid growth of community choice aggregation and the proposed formation of new CCAs appears to be inhibiting timely contracting of resources needed to ensure grid reliability and obscuring the signals that would lead to an orderly retirement of generation facilities not needed for grid reliability. Third, many existing resources that have helped meet RA obligations in the past will retire soon, including 8,000 MW of Once-Through-Cooling units in 2017-2020 and 2,200 MW of capacity from the Diablo Canyon Nuclear Generating Facility beginning in 2024. Moreover, refinements to the Effective Load Carrying Capability (ELCC) methodology will decrease the available RA capacity for all LSEs.⁵ A multi-year forward RA framework can mitigate the effects of these phenomena and enhance

³ D.10-06-018, p. 76 (Finding of Fact No. 2).

⁴ The California Independent System Operator (CAISO) reports an “uptick” in the number of units under Reliability Must-Run contracts due to policies and emerging trends in the energy industry that are fundamentally altering the resource procurement and RA landscape. *Review of Reliability Must Run and Capacity Procurement Mechanism, Issue Paper and Straw Proposal for Phase 1 Items*, CAISO, January 23, 2018.

⁵ The Office of Ratepayer Advocates (ORA) indicates that the adoption of ELCC values for wind and solar will change their RA value and may necessitate new capacity procurement by LSEs. For example, based on its analysis, ORA indicates that if the Energy Division's ELCC proposal had been adopted when the Annual Local and Flexible Procurement Obligations for the 2016 and 2017 Compliance Year were established, the available RA capacity for all LSEs would decrease by approximately 4,471 MW for the month of August 2018. *Comments of the Office of Ratepayer Advocates on Final Phase 3 Proposals*, March 10, 2017, p. 14.

overall grid reliability during the transition to a low-carbon grid. However, as the Scoping Memo recognizes, the Commission must act quickly on these issues.

II. IEP'S PROPOSAL FOR A MULTI-YEAR FORWARD RA FRAMEWORK

Overall, IEP's Proposal is quite simple. The IEP Proposal builds from the existing RA framework, including the existing methodology for identifying an individual LSE's forward RA procurement obligation. IEP's Proposal would extend the existing one-year (Year 1) RA framework forward on a rolling basis, setting LSE procurement obligations for Year 1, Year 2, and Year 3.⁶ The IEP Proposal does not substantially change the Commission's current process for identifying RA requirements, allocating RA obligations, and showing compliance with those requirements. In the following sections, IEP elaborates on the key features of the IEP Proposal related to (a) the process for establishing each LSE's multi-year RA requirement, and (b) setting the three-year obligation.

A. Process for Establishing the Multi-Year RA Requirement

Under the existing process for establishing an LSE's one-year forward RA obligation, LSEs file *historical load information* in March, submit their *year-ahead load forecast* in April, and receive their year-ahead *RA obligations* in July. Furthermore, LSEs have an opportunity to *revise their load forecasts* in August before receiving their final RA obligations in

⁶ In the last RA proceeding, R.14-10-010, IEP proposed a multiyear RA obligation that extended three to five years forward. For purposes of illustrating IEP's proposed *framework* for a multiyear forward RA mechanism, in this Proposal IEP focuses on a three-year forward framework, the minimum period for an effective mechanism. IEP's Proposal is structured so that it can easily be extended to more than three years forward, and IEP assumes that longer forward periods will be considered as part of the refinement of this framework in Track 2. In general, a longer forward requirement will provide greater assurance of reliability and more stability to California energy markets.

September.⁷ LSEs make their compliance showing in October. If LSEs are found deficient in meeting their RA obligations, they have an opportunity to cure the deficiency.

Load forecasts are developed by the California Energy Commission (CEC). The CEC first calculates each LSE's specific monthly coincidence factors using historic load data filed by the LSE. The CEC then reconciles the aggregate of the jurisdictional LSEs' monthly peak load forecast against the CEC's monthly 1-in-2, short-term, weather-normalized, peak-load forecast. Finally, the CEC reconciles the aggregate of the adjusted load forecasts with its own forecast for each IOU's service territory. The CEC uses the aggregated LSE forecasts to create monthly load shares for each transmission area, which are then used to allocate RA credits derived from demand response, Cost Allocation Mechanism resources, and Reliability Must-Run contracts.⁸

To develop the flexible capacity requirement, the California Independent System Operator (CAISO) determines if sufficient flexible RA capacity has been shown by reviewing all LSE showings for each defined flexible RA product. If there is sufficient flexible capacity, then the CAISO does not evaluate individual LSE showings. If there is a deficiency, then the CAISO seeks to determine which Local Reliability Area (LRA) is deficient and which LSEs are deficient within the LRA. The CAISO notifies LSEs of any deficiency and provides them an opportunity to cure the deficiency before the CAISO engages in backstop procurement and allocates costs to a deficient LSE.⁹

The IEP Proposal retains the existing *process* and schedule for annually establishing an LSE's forward RA capacity procurement obligation. The procedural and

⁷ *The 2016 Resource Adequacy Report*, Energy Division, June 2017, p. 11.

⁸ *The 2016 Resource Adequacy Report*, Energy Division, p. 10.

⁹ *Flexible Resource Adequacy Criteria and Must Offer Obligation, Phase 2: Revised Flexible Capacity Framework*, CAISO, January 31, 2018.

technical changes associated with moving from a one-year forward RA framework to a three-year forward RA framework are not burdensome or unreasonable. Three important changes are required: (a) LSEs will be required to forecast load over a 36-month period rather than over 12 months; (b) CAISO and CEC technical studies and forecasts used to determine local and flexible RA capacity needs will cover a 36-month forward period rather than 12 months forward;¹⁰ and (c) an LSE’s annual showing would reflect procurement sufficient to satisfy its Year 2 and Year 3 forward obligations, rather than only the following year (Year 1).

B. Setting the Obligation on a Straight-line, Declining Basis

Currently, LSEs are required to make a showing in October that they have procured 100% of their local and 90% of their flexible RA capacity needs for the following year. Under the IEP Proposal, an individual LSE’s RA requirement would be extended forward an additional two years, but the obligation would decline by 5% per year for both local and flexible RA capacity as shown in Table 1:¹¹

**Table 1:
Proposed Forward RA Capacity Procurement Obligations**

	One-Year Forward <i>[Status Quo]</i>	Two-Years Forward	Three-Years Forward
Local RA Obligation	100%	95%	90%
Flexible RA Obligation	90%	85%	80%

The straight-line, 5% declining procurement obligation provides the LSE with a hedge against over-procurement, *e.g.*, the risk faced by CCAs and ESPs that customers may opt

¹⁰ Technical studies assessing the need for local or flexible capacity five years forward have been conducted in the past. See *Flexible Resource Adequacy Criteria and Must Offer Obligation – Phase 2 Supplemental Issue Paper: Expanding the Scope of the Initiative*, CAISO, November 8, 2016, pp. 9-10.

¹¹ A similar declining requirement could be applied to additional years if additional forward years are incorporated into the final multi-year forward RA program.

out of CCA or ESP service and revert back to bundled customer service from an IOU. Available information suggests that the risk of opt-out is well below 5% per year or 10% over two years.¹² It would be reasonable for the Commission to conclude that LSEs including CCAs can forecast their load 36 months forward within the prescribed 5% per year error-band, recognizing that they have ample opportunities to revise their load forecasts, cure their deficiencies, and sell unneeded RA capacity.

III. BENEFITS OF A THREE-YEAR FORWARD RA FRAMEWORK

The Scoping Memo identified a number of procurement challenges that are catalysts for RA reform, including out-of-market procurement of resources for local reliability; growth in community choice aggregation; gas fleet transition, including impacts on disadvantaged communities; and capacity needs associated with increasingly more variable weather and weather-correlated generation. The Scoping Memo also notes that recent procurement challenges have resulted in the CAISO increasingly exercising its backstop procurement authorities to ensure grid reliability. In this section, IEP addresses the benefits of a multi-year forward RA framework in light of the critical issues facing the energy sector.

A. Minimizing Out-of-Market Procurement

A multi-year RA framework as proposed by IEP significantly lessens the risk of out-of-market, backstop procurement by the CASO through mechanisms such as the Capacity Procurement Mechanism (CPM) or the Reliability Must-Run (RMR) contracts. As a practical matter, the interplay of the existing RA, CPM and RMR procurement timelines undermines

¹² Peninsula Clean Energy Authority indicates that the risk of opt-out is approximately 2%. See *Comments of Peninsula Clean Energy Authority on Proposed Decision Setting Requirements for Load Serving Entities Filing Integrated Resource Plans*, January 17, 2018, p. 1.

timely procurement and creates the circumstances for out-of-market procurement.¹³ With a multi-year forward RA framework, the Commission will have sufficient time to order a correction of an LSE's forward RA procurement deficiency through market mechanisms. Moreover, a multiple year forward framework affords the CAISO a better lens to assess deficiencies in needed resources, identify those deficiencies to the LSEs and the Commission, and allow for timely market corrections. For example, if an LSE's showing reveals a deficiency in local RA capacity in Year 3, the Commission can act on this information to fill the looming gap (either by requiring additional procurement or authorizing third-party procurement).

B. Impact on Bundled Customers

A multi-year RA framework does not impair service or necessarily increase costs to bundled customers. By reducing the probability that the CAISO's backstop procurement authority will be exercised, the multi-year framework is a catalyst for increasing market-based procurement, thereby lowering costs to customers. In addition, bundled customers will continue to be protected from responsibility for costs associated with IOU procurement on behalf of load that departs in the future. The Commission opened Rulemaking (R.) 17-06-026 to consider refinements or alternatives to its current Power Charge Indifference Adjustment (PCIA) mechanism. The PCIA ensures that when electric customers depart IOU service and receive their electricity from a non-IOU provider such as a CCA, then those customers will remain responsible for costs previously incurred on their behalf by the IOUs – but only those costs.¹⁴ Adoption of PCIA refinements in parallel to the adoption of a multi-year framework will help

¹³ *Review of Reliability Must-Run and Capacity Procurement Mechanism: Issue Paper and Straw Proposal for Phase I Items*, CAISO Presentation at the Stakeholder Meeting, January 30, 2018, pp. 26-27.

¹⁴ *Scoping Memo and Ruling of Assigned Commissioner*, R.17-06-026, September 25, 2017.

prevent bundled customers from bearing a disproportionate burden of forward RA procurement if existing IOU load departs in the future.

Second, Resolution E-4907, adopted by the Commission on February 8, 2018, addresses the risk that bundled customers may incur costs otherwise properly borne by departed load. Resolution E-4907 effectively delays CCA service for a year upon proper notification of CCA formation in order to better align CCA service with RA procurement responsibilities. Moreover, the Scoping Memo identified as top issues whether participation in the year-ahead RA showing should be required for an LSE to serve load in the following year, and potential cost allocation issues that result of load migration.¹⁵ Together, these initiatives provide assurance that the cost of RA products and services procured on behalf of bundled customers will be reasonably apportioned among beneficiaries.

Finally, the IOUs should be allowed to establish balancing accounts to track and account for costs associated with meeting their RA procurement obligations under a multi-year framework. The balancing account will allow the IOUs to properly record and track costs associated with their procurement related to a forward RA obligation, and will provide for a complete accounting of any actual costs borne by the IOUs that should be allocated to departing load in the future. The ability to record and, if appropriate, allocate these costs should remove any barriers to timely procurement by the utilities while the Commission considers refinements to its cost-allocation methodologies.

C. Impact on Growth in Community Choice Aggregation

A multi-year RA obligation will not impede *future* CCA formation any more than the current one-year forward obligation impedes future CCA formation. R.17-06-026, which is addressing refinements or alternatives to the PCIA, is scheduled to be completed by September

¹⁵ Scoping Memo, p. 6.

2018. Resolution E-4907 effectively imposes a one-year ahead waiting period on CCA service as a means to align CCA RA procurement obligations with a showing that the obligation can be met. As a result, IOUs, future CCAs and the customers of CCAs are on notice that matters related to allocation of costs associated with forward RA procurement will be decided by Fall 2018.

By setting a forward procurement obligation that declines 5% per year or 10% over the three-year forward obligation, the IEP Proposal implicitly hedges the risk that any LSE's load will depart or decline by more than 5% in any one year or by 10% over three years. If a CCA faces an unexpected loss of load greater than 10% over a three year period, RA capacity remains fungible and of value to other LSEs that take on the obligation to serve the newly departed load. LSEs today often buy or sell RA capacity in discrete amounts during the course of the year to better match their procurement with their near-term need. While not a component of IEP's Proposal, an electronic bulletin board or a centralized clearinghouse may enhance the buying and selling of local and flexible RA capacity products. In 2010, the Commission committed to implementing an electronic bulletin board, a tradable capacity product, and a durable backstop procurement mechanism.¹⁶ Track 2 of the current RA proceeding provides the perfect venue for addressing refinements to these elements of an effective bilateral RA framework. Any remaining work needed to refine these elements, *e.g.*, to develop an electronic bulletin board, should be conducted in Track 2 of this proceeding.

Finally, a multi-year framework will shed some light on the viability of CCAs not sufficiently capitalized to engage in relatively short-term RA contracting. As a practical matter, beginning in 2021, 65% of a retail seller's Renewable Portfolio Standard procurement obligation

¹⁶ *Decision on Phase 2- Track 2 Issues: Adoption of a Preferred Policy for Resource Adequacy*, Decision 10-06-018, June 3, 2010, pp. 68-69.

must be met through long-term contracts. All retail sellers including CCAs must be prepared and sufficiently capitalized to engage in long-term procurement, and a relatively short-term multi-year RA procurement obligation will not undermine CCA formation.

D. Gas Fleet Considerations

The Commission is rightfully concerned about the orderly retirement of the natural gas fleet. A disorderly retirement would potentially undermine grid reliability, particularly if units in a local area retire at a time or in a manner unanticipated or unforeseen by planners. As the Commission implements its 2030 Integrated Resource Plan (IRP), it should have reasonable assurance that the capacity resources necessary to sustain the transition to the future low-carbon grid are available to operate as expected.

The IEP Proposal helps ensure a smooth transition to the low-carbon grid. The three-year forward obligation is aligned with a three-year Operation and Maintenance (O&M) investment cycle typical of natural gas units. The investments needed to maintain and sustain units can cost tens of millions of dollars. Investments of this magnitude cannot reasonably be expected to be recovered in the current one-year RA capacity framework coupled with short-term/real-time energy markets impacted by zero or negative energy bids. A three-year procurement obligation provides important market signals to plant owners about whether sizable O&M investments are reasonable. Both policymakers and plant owners will know that units not procured to meet a RA obligation three years forward should consider an orderly retirement.

E. Impact on Disadvantaged Communities

A multi-year RA framework is designed primarily to meet identified local and flexible capacity needs. Sustaining grid reliability at the local level is particularly important for disadvantaged communities that depend on a reliable electric grid to support the local economy, preserve and create jobs, and maintain tax revenues. A three-year RA framework by itself is not

designed to finance new resources. A multi-year framework, however, may provide a revenue stream to preferred resources that can contribute to their revenue sufficiency and viability in energy markets. Overall, implementing a three-year forward RA framework once (on a rolling basis) is not expected to have any greater impact on disadvantaged communities than implementing a one-year forward RA framework for three successive years.

IV. WHAT IEP IS *NOT* PROPOSING

To help parties to understand IEP's Proposal more clearly, IEP will briefly describe what IEP is **not** proposing.

First, IEP is not proposing a centrally administered capacity market administered by the CAISO.

Second, IEP is not proposing to redefine the RA products. IEP's Proposal accepts the definitions developed by the Commission and the CAISO. IEP's Proposal would accept any modifications to the Commission's and CAISO's definitions of RA capacity products. As noted above, if the Commission continues to refine the RA program (*e.g.*, by changing the definition of a flexible capacity product), RA refinements can be easily accommodated in a multi-year RA framework. As noted previously, an LSE's procurement to meet a multi-year forward RA obligation should continue to count toward its compliance obligation even if the Commission adopts refinements during the compliance period.

Third, IEP is not proposing the creation of a new reporting obligation or reporting format. It has been reported that LSEs currently do not report the quantity of RA capacity procured one year forward. Rather, LSE RA compliance reports must include actual contract start and end dates and megawatts for each contracted resource. If the end date of the contract is

10 or 20 years in the future, the information must be provided in the RA showing.¹⁷ Based on this understanding, IEP's Proposal would not require additional reporting by LSEs. Energy Division should continue to produce, on at least a biennial basis, an Assessment of Capacity under Contract as a means to inform the Commission and the public about the status of contracting by LSEs under the Commission's jurisdiction.

Fourth, IEP is not proposing any changes to Commission rules allocating the cost of RA capacity to load. While it may be timely for other reasons to consider how the costs of RA capacity will be allocated among LSEs, that issue is not included in IEP's Proposal. R.17-06-026 is considering alternatives to the PCIA to ensure that when electric customers depart IOU service and receive their electricity from a non-IOU provider (ESP, CCA), those customers remain responsible for costs previously incurred on their behalf by the IOUs.¹⁸ In addition, the Commission has instituted procedures (*e.g.*, the Cost Allocation Methodology or CAM) for the allocation of capacity costs to all beneficiaries which presumably could apply if new generation is needed to meet RA needs. These procedures and mechanisms remain untouched by the IEP Proposal.

V. **CONCLUSION**

Nearly eight years have passed since the adoption of D.10-06-018, where the Commission stated that a multi-year forward assessment was an indispensable tool that would assist all market participants by providing high-quality official supply and demand information.¹⁹ Current events reinforce the conclusion that a multi-year forward capacity commitment is needed to enhance reliability and provide other benefits. In late 2016, the Energy Division released a

¹⁷ See *San Diego Gas & Electric Company Comments on Final Phase 3 Proposals*, March 10, 2017, p. 5 (R.14-10-010).

¹⁸ Scoping Memo and Ruling of Assigned Commissioner, dated September 25, 2017 (R.17-06-026).

¹⁹ D.10-06-018, p. 68.

Draft Staff Working Paper (Working Paper) assessing forward contracting for local capacity. The Working Paper reported a marked decrease in contracted capacity to meet growing local capacity need. For example, in the Northern California local area, the Working Paper reported a 25% decrease in contracted capacity one year forward (2017) in spite of a 6% increase (682 MW) in the local capacity requirement.²⁰ Similarly, in the Southern California local area, the amount of contracted local capacity decreased by 36% two years forward, and by four years forward only 52% of the forecasted RA requirement was contracted.²¹

As the Commission explores an integrated policy framework to reduce electric sector greenhouse gas emissions by 2030, a key challenge will be maintaining a stable and reliable grid in the near term during a time of fluctuating load among LSEs and growing load to meet increasing electricity demands (*e.g.*, electrification of the transportation sector, population growth, increased economic activity). Yet LSEs are not contracting with resources needed to ensure local reliability or adequate flexible capacity to meet forecasted needs over the next two to five years. A multi-year RA framework will help the Commission identify gaps in local or flexible capacity that are likely to occur over a three-year planning horizon. This information will enable the Commission to act in promptly to direct local and flexible RA capacity procurement within the market, reducing any need to resort to out-of-market backstop procurement. This proposal is a viable path that creates a smooth, reliable transition to the low-carbon grid of the future.

²⁰ California Public Utilities Commission, Energy Division Draft Staff Working Paper, “An Assessment of Capacity Under Contract,” (December 22, 2016), p 18.

²¹ Energy Division Draft Staff Working Paper, “An Assessment of Capacity Under Contract.”

