

Stakeholder Comments

Flexible Resource Adequacy Criteria and Must-Offer Obligation Fifth Revised Straw Proposal, Posted January 17, 2014

Submitted by	Company	Date Submitted
Sue Mara RTOAdvisors, L.L.C. (415) 902-4108 sue.mara@rtoadvisors.com	Alliance for Retail Energy Markets (AReM) ¹	January 31, 2014

I. Introduction and Summary

The Alliance for Retail Energy Markets (“AReM”) submits these comments on the *Flexible Resource Adequacy Criteria and Must-Offer Obligation Fifth Revised Straw Proposal – Market and Infrastructure Policy* (“Fifth Straw Proposal”), posted by the California Independent System Operator (“CAISO”) on January 17, 2014.

While AReM is not necessarily opposed to the revised methodologies for determining the requirements as set forth in the Fifth Straw Proposal, AReM has significant concerns that there remain far too many important implementation steps and details to be worked out – both at the CAISO and at the California Public Utilities Commission (“CPUC”) – to make this a fully workable proposal for the 2015 resource adequacy (“RA”) compliance year.

II. The timeline established for the 2015 RA compliance year is wholly unworkable in terms of affording market participants a reasonable opportunity to conduct and conclude negotiations for RA that meets the flexible capacity requirements.

A. Effective flexible capacity will not be known until September, 2014.

The Fifth Straw Proposal states that the final effective flexible capacity (“EFC”) of eligible flexible capacity resources will not be issued by the CAISO until September. Resource owners will then have two weeks to address any discrepancies with the EFC assignments to their units with the CAISO. That means that final EFCs will not be available until mid September.

For the 2014 compliance year, it was determined that the need to design and implement important details of the flexible capacity requirements necessitated an accommodation that flexible capacity compliance showings would not be subject to any sanctions for non-

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

compliance. Unfortunately, as was amply demonstrated at the CAISO's stakeholder meeting on January 23, 2014, the same lack of detail appears to be the case this year as well. This is not surprising given that it was only in December of 2013 that the CAISO first unveiled its substantively different approach to defining the flexibility capacity requirements, and the associated proposal was not distributed until January 17, 2014.

The uncertainty that remains about the details of this yet again revised RA paradigm is already manifest in the markets. Suppliers of resource adequacy are requiring (and understandably so) that documentation of RA purchases specifically state that they are not providing flexible capacity. The proposed timeline for certainty about the EFC is such that Electric Service Providers ("ESPs") that AReM represents will be unable to commence much, if any, of their flexible capacity procurement until mid-September, a scant six weeks before the year ahead compliance showing deadline, instead of having a more reasonable spring and summer time period to conduct such procurement. In short, to make RA purchases before there is more certainty about EFC runs the risk that the selected resource will not fulfill an ESP's assigned allocation of the flexible capacity requirement – such that the procurement will essentially become "stranded." ESPs' customers expect and deserve better management of capacity procurement, and will rightfully resist paying for unnecessary and valueless RA. To require procurement for this new compliance paradigm in such a compressed timeframe is not prudent or fair.

To be clear, it may well be possible for this sort of timeline to work in the future, when all market participants have developed some experience with the new requirements and there is a body of historical data on the existing fleet's flexible capacity capabilities. Until that experience has time to develop, however, there must be a more rationale compliance timeline.

B. Issues associated with determining Net Qualifying Capacity for flexible capacity abound.

Numerous issues continue to be unresolved with respect to how the existing Net Qualifying Capacity (NQC) associated with certain types of RA resources will be counted for EFC purposes. This is the case with respect to use-limited resources, preferred resources (demand response and distributed generation resources), CHP resources, combined cycle units, and energy storage. Resolution of these issues has tasks that are shared among the CAISO, the CPUC and the California Energy Commission ("CEC"). The pathway to joint resolution of these issues remains uncertain – *i.e.*, whether the CAISO, CPUC, and CEC will be able to resolve these issues in time to publish EFCs in September, let alone any earlier, is unclear.²

C. Issues associated with allocation of capacity from CAM resources remain that delay the development of compliance templates necessary for compliance showings.

Another important issue that remains to be resolved is how resources that are afforded cost recovery pursuant to the Cost Allocation Mechanism ("CAM") will be allocated among the CPUC-jurisdictional Load-Serving Entities ("LSEs"), whose customers are paying the CAM

² Not only do these counting rules have yet to be resolved, the ongoing Phase 3 of the CPUC RA deliberations will also be the forum pursuant to which the CPUC will determine whether or not it will adopt and endorse the methodology by which the CAISO is calculating the overall flexible capacity requirements. Should the CPUC determined that the methodology is flawed and therefore rejects it, there would of course be serious new issues as what a CPUC-jurisdictional LSE 's compliance obligations are as between the CAISO and the CPUC.

charges. This has two important impacts. First, ESPs must factor their CAM allocations into their procurement planning. As has been amply demonstrated in various CPUC proceedings, the uncertainty about when and whether resources procured by the utilities will be subject to CAM continues to be a vexing issue with respect to the system and local RA requirements. The added complexity of the new flexible capacity requirements serves to accentuate issues associated with CAM, and they remain unresolved.

Second, until the CAM allocations are finalized, the compliance templates applicable to both CAISO and CPUC compliance showings cannot be finalized. Past history with the compliance templates indicates that there are generally several iterations associated with each issuance of a new template before the formulae are finalized and the allocations are correctly stated. It simply does not appear that these tasks associated with CAM allocation and template design can be addressed in time to afford stakeholders timely opportunities to comply with the new requirements. Given the potential for costly sanctions and penalties for a deficient showing, this is a real problem -- one that should be addressed.

D. Other Compliance Template Issues

The Fifth Straw Proposal continues to contemplate that entities will submit separate compliance showings for system/local RA versus flexible capacity. It continues to baffle AReM as to why two separate compliance showings cannot or should not be combined into one showing. Moreover, AReM has long advocated that the compliance templates used by the CAISO and CPUC need to be better harmonized to ensure that both are counting RA in the same way, to eliminate instances of compliance in one showing and non-compliance in another simply due to rounding conventions, and to otherwise streamline the compliance reporting process. Such streamlining should be undertaken before mandatory compliance is required.

III. The CAISO and CPUC must work jointly to resolve details of the CPUC's allocation of the flexible capacity requirements to LSEs.

The Fifth Straw Proposal describes the methodology that the CAISO intends to use to determine the flexible capacity requirements for each Local Regulatory Authority ("LRA"). That methodology includes accumulating data from the scheduling coordinators ("SCs") on the renewable portfolio for each LSE under CPUC jurisdiction. In essence, the CAISO will be developing an assessment of each LSE's contribution to the need for flexible resources based on the specifics of that LSE's renewable portfolio, including the quantity of renewable resources in the portfolio versus conventional generation, whether the size and location of elements of the portfolio serve to address flexible requirement, not to mention the variability associated with the load forecast for each LSE. It is AReM's understanding that the CAISO will provide to the CPUC the aggregate flexible capacity requirement, as well as the contribution of each CPUC-jurisdictional LSE to that total, but that the data provided to the CPUC will not include a breakdown of how much load LSEs serve in each utility territory (for LSEs that serve load in more than one utility territory, as is the case with AReM's ESP members).

For the 2014 RA compliance year, the CPUC allocated the flexible capacity targets to its jurisdictional entities on a peak load ratio share basis. It is not clear whether the revised methodologies embedded in the Fifth Straw Proposal will cause the CPUC to reconsider this allocation process as part of its deliberations in the ongoing Phase 3 of Rulemaking 11-10-023, or if this will become a contentious issue among the various CPUC-jurisdictional LSEs. AReM recognizes that the CAISO likely considers this issue to be outside its ability to resolve – and

that may be the case – but the CAISO cannot turn a blind eye to the importance that resolving this issue will have on compliance with the flexible capacity requirements. Thus, it is appropriate to raise this issue here so that the CAISO can remain mindful that the complexities associated with the elements of flexible capacity RA that are cross-jurisdictional to the CPUC may seriously affect the proposed timeline.

In addition to the issues associated with the allocation of the flexible capacity requirements, it also has yet to be determined whether and to what extent the data that the CAISO intends to request of scheduling coordinators creates confidentiality issues that must be addressed. That will not be known until the CAISO issues its data request, which it has yet to do.

IV. The CAISO and CPUC should address these market uncertainty issues by assuring market participants that the 2015 RA compliance year will, as was the case with 2014, carry no threat of flexible capacity compliance penalties.

As discussed above, many uncertainties and details remain to be resolved concerning implementation of the flexible capacity requirements, which have been newly revised by the CAISO. In addition, the CPUC has not yet begun to address 2015 compliance requirements and enforcement rules in its Phase 3 RA proceeding (R.11-10-023). Further, at the January 23rd meeting, the CAISO staff admitted that it has not proposed any enforcement mechanism for suppliers providing flexible capacity to the market and intends to delay consideration of an availability incentive mechanism until 2016. Enforcement and compliance rules for buyers and suppliers of flexible capacity should be implemented concurrently or not at all. AReM recommends that the CAISO and CPUC delay implementation of enforcement and compliance until 2016 to ensure a level playing field for market participants and that the rules are well understood, implemented fairly, and allow sufficient time for procurement.