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)

APPLICATION FOR REHEARING OF DECISION 19-10-021 OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

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The California Independent System Operator Corporation (CAISO) submits this Application for Rehearing (Application) of Decision (D.) 19-10-021 addressing resource adequacy import rules pursuant to Rule 16.1 of the Commission's Rules of Practice and Procedure. The Commission mailed D.19-10-021 (Decision) on October 17, 2019, and this Application is timely consistent with the Rule 16.1 to file applications for rehearing within 30 days after the Commission mails its final decision.

I. Introduction

Resource adequacy imports play a vital in role in helping California meet its capacity and energy needs. The CAISO appreciates that the Commission is working to ensure that these resources are available when and where needed, consistent with the foundational principles of the resource adequacy program. However, the Decision does not advance resource adequacy program principles and, instead, creates significant uncertainty in both the energy and capacity markets regarding the role and use of resource adequacy imports. This uncertainty is the result of the significant changes imposed by the Decision that are not based on substantial evidence and have not had an appropriate opportunity for vetting through this proceeding.

The Decision is legally deficient in several aspects. First, it modifies existing resource adequacy import rules without substantial evidence. The Decision creates a new requirement for non-resource specific resource adequacy imports to self-schedule into the CAISO markets during the timeframe established in the governing contract. The Commission justifies this requirement by referencing the Commission's 2004 and 2005

resource adequacy decisions, neither of which mention self-scheduling nor any distinctions between different types of resource adequacy imports. As a result, the Decision's new requirements cannot reasonably be interpreted as an affirmation of existing resource adequacy import rules.

In addition, the Decision was modified significantly on the day prior to the Commission's vote. The late modifications materially changed the duration of the self-scheduling requirement. The Commission did not provide notice of the material changes to parties, nor did it provide an opportunity for comment. As a result, the Commission failed to fully consider the impacts the self-scheduling requirement will have on the energy and capacity markets.

Rather than relying on a strained interpretation of prior Commission decisions, the Commission should re-open the record to establish resource adequacy import rules that are supported by the record in this proceeding.

II. The Decision Modifies Existing Resource Adequacy Import Rules without Substantial Evidence.

A. The Decision Provides No Basis for Requiring Non-Resource Specific Resource Adequacy Imports to Self-Schedule.

The Decision purports to affirm the existing requirements for resource adequacy import contracts established in D.04-10-035 and D.05-10-042. Specifically, the Decision cites a 2004 Workshop Report on Resource Adequacy issues, later adopted by reference in D.04-10-035, stating that the Qualifying Capacity of an import is equal the contract amount, provided that the contract:

> "1. Is an ***Import Energy Product*** with operating reserves
>
> 2. ***Cannot be curtailed for economic reasons***
>
> 3a. Is delivered on transmission that cannot be curtailed in operating hours for economic reasons or bumped by higher priority transmission OR
>
> 3b. Specifies firm delivery point (not seller's choice)."[1]

Based on the requirements emphasized above, the Decision "clarifies" that resource

[1] *Workshop Report on Resource Adequacy Issues* (Workshop Report), p. 21. http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/REPORT/37456.PDF.

adequacy import contracts must "self-schedule into the CAISO markets, consistent with the timeframe established in the governing contract."[2] Contrary to the Commission's assertion, this Decision clearly constitutes a substantive modification to the requirements for resource adequacy import contracts rather than a mere affirmation of existing requirements. The Workshop Report did not require importers to self-schedule energy to receive resource adequacy credit. Without substantial evidence and unsupported by the express wording of the Workshop Report, the Decision concludes that "an import energy product that is available only when called upon in the CAISO's day-ahead market or residual unit commitment process does not qualify as an 'energy product' that 'cannot be curtailed for economic reasons.'"[3] The Decision does not explain the logic underlying this conclusion, nor does it explain how the specific wording of the Workshop Report provides a basis for requiring non-resource specific resource adequacy imports to self-schedule in the CAISO markets.

The words "self-schedule" appear nowhere in the Workshop Report requirements for imports. The Workshop Report does not state that imports must actually deliver energy to the CAISO during all contract hours to meet resource adequacy requirements. Nor does the Workshop Report consider distinctions between day-ahead and real-time must-offer obligations, which is reasonable in light of the fact that separate day-ahead and real-time energy markets did not exist at the time. In contrast, the Decision puts significant weight on such distinctions. Separately, the Workshop Report notes that "[t]he must offer obligation for energy provides a link between the advance capacity commitments and the need for those resources to *offer* energy in real time"[4] (emphasis added).

The Workshop Report's requirement that resource adequacy imports "cannot be curtailed for economic reasons" is designed to limit an importer's economic curtailment rights under the contract provisions; it does not address how a resource must be bid in the CAISO's energy markets. Allowing a resource adequacy importer to economically bid into the CAISO market—and to have its energy dispatch optimized through the CAISO's security constrained economic dispatch—does not mean that the contract allows the

[2] Decision, p. 9.
[3] Decision, p. 8.
[4] Workshop Report, p. 55.

importer to curtail its output for economic reasons. Service Schedule C of the currently effective WSPP Agreement,[5] which is directly referenced in the Workshop Report, affirms that Firm Capacity/Energy Sales are only interruptible (*i.e.*, curtailable) under the following conditions;

> (a) within any recall time or allowed by other applicable provisions governing interruptions of service under this Service Schedule, as may be mutually agreed to by the Seller and the Purchaser,
>
> (b) due to an Uncontrollable Force as provided in Section 10 of this Agreement; or
>
> (c) where applicable, to meet Seller's public utility or statutory obligations to its customers; provided, however, this paragraph (c) shall not be used to allow interruptions for reasons other than reliability of service to native load.[6]

The pro forma WSPP contract language does not require self-scheduling, yet it is consistent with the Workshop Report language requiring resource adequacy imports not to be curtailed for economic reasons.

The context of the Workshop Report confirms that the Commission never equated contracts that are not "curtailable for economic reasons" with self-scheduling requirements. In the Qualifying Capacity calculations provided in Section 5 of the Workshop Report, the Commission specifically noted that all "System Contracts" categorized as "curtailable for economic reasons" should not count toward resource adequacy requirements.[7] Under the Decision's logic, this would mean that the importing supplier would need to self-schedule for *any* system contract to count for resource adequacy purposes. That has never been the case.

B. The Decision Provides No Legal Basis for Distinguishing Between Resource-Specific Import Requirements and Non-Resource Specific Import Requirements.

The Decision provides that self-scheduling requirement does not apply to resource-specific resource adequacy imports because "resource-specific imports have a physical

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[5] WSPP Inc. is an organization of electric wholesale market entities that have developed and utilize a standardized
power agreement (WSPP Agreement) to execute trading opportunities.
[6] WSPP Agreement, effective August 12, 2019.
http://www.wspp.org/pages/documents/09_24_19_current_effective_agreement.docx.
[7] Workshop Report, p. 21. *See*, specifically, footnote 15.

resource backing the assigned RA capacity and therefore, do not carry the same concerns about speculative supply as with non-resource specific imports."[8] The Decision does not cite any legal basis for this distinction between resource-specific and non-resource specific imports. Similarly, the Workshop Report does not provide any basis to distinguish between such imports.

Instead, the Decision makes an unsupported factual finding—that resource-specific imports do not carry the same concerns about speculative supply as non-resource specific imports. Although there may be a reason to treat resource-specific imports differently than non-resource-specific imports, there is no basis whatsoever for such factual finding in the record of this proceeding. On rehearing, the Commission may find it is appropriate to limit resource adequacy imports to resource specific or dynamically-scheduled resources, but it should do so based on a fully formed record. The CAISO agrees such resources provide certain benefits because they provide visibility through telemetry; can be accounted for accurately; have an enforceable must offer obligation; and the CAISO can validate their commitment and marginal costs. The Commission should consider the facts fully and, if necessary, modify the resource adequacy import rules appropriately.

The Decision's reliance on an unsupported factual finding to justify its decision to exclude resource-specific imports from the self-scheduling requirement highlights the fact that the self-scheduling requirement is not a mere clarification or affirmation of previous Commission decisions. It demonstrates that both the self-scheduling requirement and the distinction between resource-specific and non-resource specific imports are new policies that are unsupported by the record.

III. The Decision Fails to Comply with Public Utilities Code Section 311(e) and Rule 14.1 by Substantively Revising the Findings of Fact and Conclusions of Law Included in the Proposed Decision.

Public Utilities Code Section 311(e) requires that an "alternate item" to a proposed decision must be served on all parties and subject to public review and comment before it may be voted upon. The Public Utilities Code further defines an "alternate" as a "substantive revision to a proposed decision that materially changes the resolution of a contested issue or any substantive addition to the findings of fact, conclusions of law, or

[8] Decision, p. 9.

ordering paragraphs." The Commission's Rule 14 contains similar provisions defining an alternative proposed decision[9] and allowing for comments on such alternatives.[10]

In the present case, the Commission issued its proposed decision on September 6, 2019 (Proposed Decision). The Commission accepted opening and reply comments on the Proposed Decision. Subsequently, on October 9, 2019, the Commission posted a revised proposed decision on its website (Revised Proposed Decision), without serving parties. On October 10, 2019, the Commission voted to approve the Revised Proposed Decision, without providing an opportunity for party comment on it. The revisions to the Proposed Decision included material changes regarding the self-scheduling requirements, and the Commission failed to provide parties notice and opportunity to comment on these material changes.

Specifically, the Proposed Decision required all resource adequacy imports to provide "energy delivery that flows, at a minimum, during the Availability Assessment Hour window."[11] In contrast, the Decision approved by the Commission requires non-resource specific resource adequacy imports to "be self-scheduled into the CAISO market consistent with the timeframe established in the governing contract." As a result, the Revised Proposed Decision materially modified both (1) the hours in which resources must self-schedule (*i.e.*, the 4:00 p.m. to 9:00 p.m. Availability Assessment Hour window vs. timeframe in the contract) and (2) the identity of the resources required to self-schedule to receive resource adequacy credit (*i.e.*, all imports vs. non-resource specific imports).

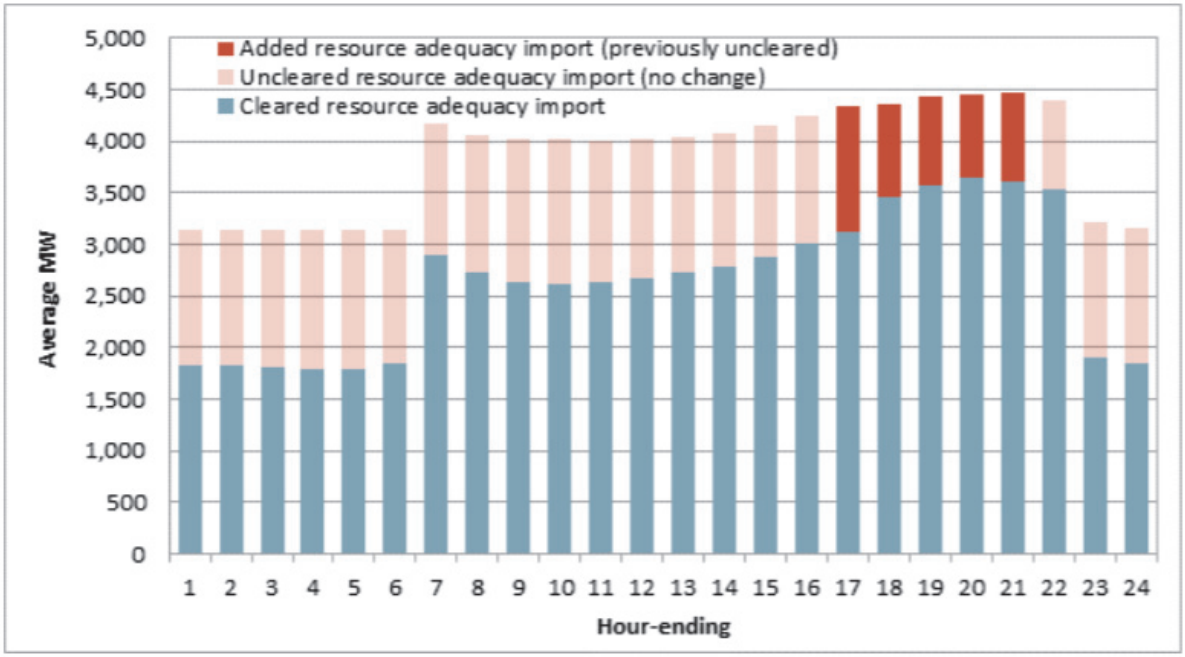
These changes are substantive and material, as is evidenced by the comments on the Proposed Decision. The CAISO's comments on the Proposed Decision noted that requiring energy to flow during the Availability Assessment Hours (4:00 p.m. to 9:00 p.m.) would limit the ability of imports to meet ramping needs and would increase the need for other dispatchable resources. In reply comments, parties challenged the CAISO's concerns on the basis that the Proposed Decision would only require additional resource adequacy imports to be scheduled "during the evening ramp hours when the CAISO's reliance on imports" is

[9] California Public Utilities Commission, *Rules of Practice and Procedure*, Rule 14.1.
[10] California Public Utilities Commission, *Rules of Practice and Procedure*, Rule 14.3.
[11] *Proposed Decision,* Conclusion of Law 2, p. 13.

generally highest.[12]

The material modifications introduced in the Revised Proposed Decision are unsupported by the record and render this discussion incomplete. Expanding the self-scheduling requirement to the timeframe established in the contract further reduces the flexibility of resource adequacy imports to meet net-load ramping needs. Figure 1, below, which was presented in DMM's comments on the Proposed Decision, shows the average hourly resource adequacy imports offered during July 2019.

Figure 1



DMM produced Figure 1 with its comments supporting the Proposed Decision arguing that self-scheduling resource adequacy imports during the Availability Assessment Hours "would not prevent the 'shaping' of imports to fit the net load ramp."[13] However, because the Commission-approved Decision requires self-scheduling during the timeframe of the contract, Figure 1 now also demonstrates the CAISO's concerns regarding reduced flexibility provided by resource adequacy imports. Figure 1 shows that the "timeframe established" in resource adequacy import contracts is often the 16-hour window between

[12] Department of Market Monitoring, *Reply Comments of the Department of Market Monitoring of the California Independent System Operator Corporation*, October 1, 2019, p. 2.
[13] Id.

hour-ending 7 and hour-ending 22. Figure 1 also shows that resource adequacy imports not cleared by the CAISO market are substantially higher during the midday—when solar resources are providing low-cost energy—compared to the Availability Assessment Hours. Figure 1 therefore demonstrates that the self-scheduling requirement during the contract term hours will likely result in the CAISO needing to substantially dispatch more uneconomic energy than the Proposed Decision initially contemplated.

The Proposed Decision relied on the rare occurrence of negative prices during peak intervals to mitigate the impact of market inefficiencies. However, the Revised Proposed Decision results in additional market inefficiencies, and there was no opportunity for parties to assess the potential impact of these changes. As Figure 1 illustrates, the CAISO would receive an additional 1,200-1,500 MW of self-scheduled resource-adequacy imports during midday hours when solar production is at its peak and over-night. These are precisely the hours when prices could be negative. The problem could be exacerbated in non-summer months, even if import resource adequacy is lower than summer months, because the net loads during the midday hours are significantly lower.

Requiring resource adequacy imports to self-schedule during the hours established in the contract will also have other significant market impacts that were not fully vetted due to the late changes to the Proposed Decision. For example, the extended self-scheduling requirement could have significant impacts on the bilateral capacity market, including (1) reducing forward contracting resource adequacy imports when there is an impending capacity shortfall, and (2) creating uncertainly by imposing a sudden change in bidding obligations thereby causing suppliers not to contract with California load serving entities and, instead, to commit capacity to external load-serving entities. The Decision also failed to provide an opportunity to properly consider whether the self-scheduling requirement poses an increased risk that may impede or prevent imports that are ultimately supported by actual physical capacity from being offered for resource adequacy. The Decision overlooks that even non-resource specific system resources can provide reliable deliveries to the CAISO markets when provided with the appropriate conditions.

These unexplored issues illustrate that the Commission improperly made material modifications to the Proposed Decision without providing adequate notice and opportunity for comment. As a result, the Commission has not had the opportunity to fully consider the

impacts of the self-scheduling requirements imposed in the Decision. Thus, the Decision violates Public Utilities Code Section 311(e).

IV. Conclusion

For the reasons stated above, the Commission should grant rehearing and should establish resource adequacy import rules based on a fully informed and vetted record.

Respectfully submitted,

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