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 Procurement Obligations.	)	R.11-10-023

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
RESPONSE TO REQUEST FOR EVIDENTIARY HEARINGS

The California Independent System Operator Corporation ("ISO") respectfully submits to the California Public Utilities Commission ("Commission" or CPUC") the response of ISO to the request for evidentiary hearings in this proceeding filed by Sierra Club and The Utility Reform Network ("TURN") on March 7, 2013, as discussed at the prehearing conference on March 20, 2013 and as amended by Sierra Club and TURN on March 28, 2013. The ISO recommends that the Commission deny the request because it fails to establish any grounds that warrant evidentiary hearings.

I. ISO RESPONSE TO REQUEST FOR EVIDENTIARY HEARINGS

In the October 20, 2011 Order Instituting Rulemaking in this matter, the Commission stated its expectation that the issues may be resolved through comments and workshops without the need for evidentiary hearings. The December 6, 2012 Phase 2 Scoping Memo confirmed that finding by the Commission. The Phase 2 Scoping Memo stated that:

> At this time we do not foresee that evidentiary hearings are required to resolve Phase 2. This Ruling confirms the preliminary

> determination in the OIR that issues in Phase 2 of this proceeding may be resolved through a series of workshops and filed comments. It is incumbent upon any party arguing for evidentiary hearings to file a motion no later than March 7, 2013, that identifies specifically any disputed material issues of fact that the party asserts require evidentiary hearings.

On the March 7, 2013 deadline date for filing a request for evidentiary hearings in this proceeding, Sierra Club and TURN filed their request claiming that evidentiary hearings are needed as a "meaningful forum" to vet ISO data because the "[w]orkshops fall short of the robust inquiry and transcribed record needed for an informed understanding" of the need for a flexible capacity requirement.[1]

The ISO disagrees with this characterization of the workshop and comment process. Since the inception of the resource adequacy program, the Commission has vetted all resource adequacy issues and received input from stakeholders on those issues through workshops and written comments. Over the years, the issues raised and proposals made have involved significant and complex changes to fundamental elements of the resource adequacy program, most of which were contested by the parties. Yet, despite the comprehensiveness of the proposed changes or their highly difficult nature, the Commission did not require evidentiary hearings for any of those matters. Examples of such issues include:

- What the counting rules should be to calculate the qualifying capacity for the various types of resources that provide resource adequacy capacity,[2]
- Whether load serving entities should be required to procure capacity to meet each month's peak demand for all hours of the month,[3]

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1 Request for Evidentiary Hearings. pp. 1-2.
2 CPUC Decision 04-10-035 (October 28, 2004), pp. 20-30.
3 CPUC Decision 05-10-042 (October 27, 2005), pp. 42-51.

- How to establish resource adequacy requirements in local areas,[4]
- How to ensure sufficient capacity is procured and deliverable in Southern California, leading to the Path 26 counting constraint,[5]
- Whether the maximum cumulative capacity buckets should be eliminated,[6]
- Whether the counting rules for intermittent resources should be modified to account for an exceedance factor,[7] and
- Whether the replacement requirement on load serving entities for scheduled outages at resource adequacy resources should be modified or eliminated.[8]

It is significant that the Commission has successfully resolved all of these complex resource adequacy issues that have come before it through workshops and written comments. Even the most difficult and comprehensive changes to the resource adequacy program have been addressed without the need to conduct evidentiary hearings. The flexible capacity proposals before the Commission in this proceeding are no more complex nor contentious than previous resource adequacy issues. They do not warrant different treatment than the prior issues and are not less susceptible to resolution through the workshop and written comment process than the prior issues. Sierra Club and TURN have provided no good reason for the Commission to depart from its longstanding process for considering resource adequacy issues.

Indeed, the ISO submits that there is nothing in the formal evidentiary hearing process that will propel the Commission to a better record or better result than what has

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4 CPUC Decision 06-06-064 (June 29, 2006), pp. 32-74.
5 CPUC Decision 07-06-029 (June 21, 2007), pp. 12-14.
6 CPUC Decision 09-06-028 (June 18, 2009), pp. 116-19.
7 Id. at 45-53.
8 CPUC Decision 10-06-36 ((June 24, 2010), pp. 21-24; CPUC Decision 11-06-022(June 23, 2011), pp. 24-32.

already been presented and accomplished through workshops and written comments in this rulemaking proceeding. The workshop/comment process itself is essentially a "paper" hearing. The Energy Division Staff and the parties submit written proposals that their subject matter experts explain during the workshops in detailed slide presentations and in response to questions and remarks by other parties. Following the workshops, the parties may submit written comments and reply comments on the proposals and issues that were discussed. In the ISO's view, this "paper" hearing process provides parties the same opportunity to build a solid record, advance their respective proposals, and challenge the proposals of other parties as an evidentiary hearing, but through a forum that is better suited for comprehensive discussion and development of policy issues than a formal evidentiary hearing.

More importantly, Sierra Club and TURN have failed to meet the threshold for evidentiary hearings established in the Order Instituting Rulemaking and the Phase 2 Scoping Memo. Sierra Club and TURN have not identified specifically any disputed material issues of fact that warrant evidentiary hearings.

In their initial request for hearing, Sierra Club and TURN claim that "the timing and extent of a need for flexible capacity procurement is a significant source of potential dispute among parties to this proceeding."[9] However, the request only lists two items that are claimed to be disputed material facts. Those items are: 1) the projected levels of flexible capacity each year until 2020 and the characteristics of these flexible resources; and 2) the projected flexible capacity needs each year until 2020 due to increasing renewable generation.[10] This claim by Sierra Club and TURN as the basis

[9] Id. at 1.
[10] Request for Hearing, p. 2.

for their hearing request ignores the fact that the Commission has already determined that there is a need for a flexible capacity requirement. In Decision 12-06-025 in the preceding resource adequacy proceeding, the Commission held that:

> No party disputes that grid operations and reliability may suffer without sufficient generation capable of being flexibly dispatched. We agree that we need to define flexible attributes for local reliability purposes in order to ensure ongoing reliability in a changing load and supply environment.[11]
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> We will immediately begin the effort to finalize a framework for filling flexible capacity needs in this proceeding. Our intent is to adopt a framework by or near the end of 2012, for implementation in the 2014 RA compliance year.[12]

In fact, the decision favorably cited TURN's comments in that proceeding as supporting the goal of establishing a flexible capacity requirement for 2014:

> TURN echoes the sentiments of most parties in its comments: "(t)he Commission can reasonably defer implementing any flexible capacity requirement beyond the 2013 RA compliance year. However…the Commission should begin addressing possible flexible capacity needs and policies in the very near future with the goal of assessing if such requirements should be imposed for the 2014 RA compliance year."[13]

The items listed by Sierra Club and TURN also ignore the fact that the Commission in this proceeding is considering the flexible capacity requirement to be set only for 2014. The projected levels of flexible capacity needs and available flexible capacity for the years 2015-2020 are, at best, tangential to the scope of this proceeding.

In their amended request for evidentiary hearings, Sierra Club and TURN identify five items that they claim to be disputed material facts. Four of these items relate to assumptions contained in the ISO's study to assess the sufficiency of effective flexible

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11 Decision 12-06-025 (June 21, 2012), p. 17.
12 Id. at 20.
13 Id. at 19-20.

capacity in the ISO's balancing authority area rather than to the dispute of a material fact. The fifth refers to differences among the parties about the extent to which imports should be eligible to provide flexible capacity.

The first alleged factual dispute is with the ISO's "assumption that only Dispatchable RA can be considered operationally available."[14] This allegation appears to be based on a misunderstanding rather than a dispute with the ISO's calculation. The ISO's calculation began with the fleet of all resources in the ISO's balancing authority area, then filtered the fleet to identify the pool of resources that have a dispatchable designation in the ISO's master file, and next removed those dispatchable resources that were not listed by a load-serving entity as resource adequacy resources during 2012. This final step was necessary and appropriate to recognize that not every resource with a calculated effective flexible capacity value may want to be a resource adequacy resource or may want to provide flexible capacity. As the ISO explained at the workshop and in greater detail in the ISO's comments filed in this proceeding on this date, the ISO does not intend to limit the eligibility of resources to provide flexible capacity only to dispatchable resources that provided resource adequacy capacity during the prior year, as Sierra Club and TURN apparently believe.

The second factual dispute alleged by Sierra Club and TURN is with the ISO's "Reductions in EFC Due to OTC Retirements in 2015."[15] This alleged dispute pertains to calculating available flexible capacity in 2015. The calculation for 2015 may provide a point of information, but it is outside the scope of establishing what the flexible capacity requirement should be for 2014, which is the focus of this proceeding, and

[14] Amended Request for Evidentiary Hearings, p. 4.
[15] Id. at 5.

therefore should not be the basis for requiring evidentiary hearings in this proceeding. In addition, as discussed in the ISO's comments filed in this proceeding on this date, the reduction is necessary to reflect the circumstances where flexible capacity resources, in this case soon-to-be retiring, flexible once-through cooling generating resources, are being replaced in part by intermittent resources coming on line to meet the State's renewable portfolio standards.

The third alleged factual dispute is with the ISO's "Reductions in EFC due to Self Scheduling."[16] This allegation is also misplaced. The ISO's reductions for self scheduling recognize that self scheduling is permitted under the resource adequacy program and by the ISO tariff. The reductions are appropriate and conservative assumptions to account for flexible resources that will or must self schedule for technical, operational, or contractual reasons, as the ISO discussed at the March 20th workshop and the ISO's comments filed in this proceeding on this date. The actual quantity of self-scheduled flexible resource capacity in the ISO's real-time market typically exceeds the 2,000 MW used in the ISO's examples.

The fourth alleged dispute of a material fact is with the ISO's "Reductions from hydro." Again, this allegation appears to be based on a misunderstanding of the reason for the adjustment. As the ISO discussed at the workshop and in its comments filed in this proceeding on this date, the hydro adjustment is necessary to reflect the stated intention of at least one owner of hydro facilities not to include all of its hydro capability in resource adequacy showings in order to have sufficient hydro capacity available as a cushion to meet environmental requirements or address other hydrological conditions. The reduction is not an arbitrary adjustment.

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[16] Ibid.

The fifth dispute of material fact alleged by Sierra Club and TURN is the "Availability of imports for flexibility."[17] In support of this allegation, Sierra Club and TURN state only that "[p]arties continue to dispute the extent to which imports are available to provide flexibility."[18] The allegation lacks adequate support or explanation. In addition, it overlooks the discussion in the Joint Parties Proposal that states that: "Flexible pseudo-tie and dynamically scheduled capacity resources can count toward meeting an LSE's flexible capacity procurement obligations in the same way as internal resources."[19] Further, during the workshops, the ISO committed to continue consideration of this issue next year for resource adequacy compliance year 2015. Import resources that are not pseudo-tie or dynamically scheduled are currently only dispatched on an hourly schedule. This means that these resources are not operationally available for dispatch on 5-minute basis, which is an element of flexible capacity. Accordingly, if Sierra Club and TURN have a dispute on this issue it is one of policy, and evidentiary hearings in this proceeding are, therefore, unwarranted.

Although Sierra Club and TURN claim that evidentiary hearings are needed because of disputed material facts, the disputed material facts they identify in support of that claim are unsupported and do not stand up under scrutiny. They are based on misunderstandings of the ISO's flexibility assessment, raise issues with calculations that go beyond the resource adequacy compliance year under consideration in this proceeding, and/or couch policy arguments as factual disputes. The Order Instituting Rulemaking and the Phase 2 Scoping Memo established a very clear threshold for

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[17] Ibid.
[18] Ibid.
[19] Resource Adequacy and Flexible Capacity Procurement Joint Parties Proposal (October 29, 2012), pp. 22-23.

requiring evidentiary hearings – there must be disputed material facts. Neither the initial nor amended request for hearings submitted by Sierra Club and TURN has met that threshold.

II. CONCLUSION

For the reasons just discussed, the ISO respectfully requests that the Commission deny the request for evidentiary hearings consistent with this response.

Respectfully submitted,

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Date: April 5, 2013