

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish
Policies, Processes, and Rules to Ensure
Reliable Electric Service in California in the
Event of an Extreme Weather Event in 2021.

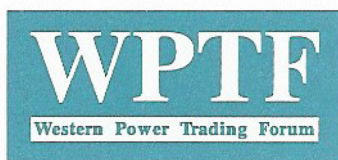
Rulemaking 20-11-003

**WESTERN POWER TRADING FORUM
PHASE 2 OPENING TESTIMONY**

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Western Power trading Forum (WPTF) submits this opening testimony in accordance with the *Assigned Commissioner’s Amended Scoping Memo and Ruling for Phase 2* (Scoping Ruling) and related guidance.

I. INTRODUCTION

The California Energy Commission (CEC) has conducted a summer reliability analysis that projects capacity shortfalls of between 600 and 5,200 megawatts (MW) during 2022 and 2023, depending on the weather. The Scoping Ruling solicits proposals for increasing peak and net peak supply resources that are available to the California Independent System Operator (CAISO) in 2022 and 2023, particularly during the summer months. The Energy Division Staff Concept Paper suggests policies and program changes to address Summer 2022 and 2023 reliability needs at net peak. WPTF’s basic policy recommendation for Phase 2 is that the Commission not adopt any changes to the Resource Adequacy (RA) program rules in this proceeding; the proper venue for considering such proposals is the RA proceeding, where stakeholders are engaged in an intensive process to develop a comprehensive proposal for restructuring the RA program to meet the

reliability challenges of the coming decade. WPTF will address any such proposals in its reply testimony.

In this opening testimony, per the guidance from Administrative Law Judge Stevens, WPTF provides its reactions and recommendation with respect to Section 4.C of the Staff Concept Paper, which presents Staff’s “observations and proposals regarding opportunities to bring new battery and generation resources online by summer 2022.” WPTF’s main concern is that some of Staff’s proposals for new procurement (e.g., energy dispatch under system emergency conditions, non-Resource Adequacy (RA) imports, and non-RA firm energy products) could in effect create a new construct where energy-only contracts are authorized as a substitute to RA contracts for summer resource adequacy for 2022 and 2023. WPTF’s general concern is this hybrid construct could distort both the capacity and energy markets, with unintended consequences and counter-productive results.

II. COMMENTS ON STAFF CONCEPT PAPER

For ease of reference, WPTF’s comments on the Staff Concept Paper are organized in the same order as Staff’s proposal are presented in Section 4.C.

1. Introduce Penalties for Delays to D.19-11-016 Procurement

WPTF is not necessarily opposed to LSEs being fined for failure to meet the required online dates for resources they have committed to procure pursuant to D.19-11-016, provided the Commission recognizes a showing of good faith efforts to meet the required online date as an affirmative defense. WPTF is opposed, however, to Staff being delegated the authority to impose such fines (assuming that is what Staff is suggesting). The Commission already has the authority to assess fines for not meeting D.19-11-016 procurement requirements under Public Utilities Code § 2017 et seq. The normal process for the Commission to institute an enforcement proceeding

pursuant to that authority is to issue an order to show cause (OSC) or order instituting investigation (OII). Such proceedings are overseen by an administrative law judge, and the defendant can present evidence and cross examine witnesses. Such due process protections are vital to ensure LSEs are not unfairly penalized for procurement delays that were beyond their reasonable control.

The Commission would also need to ensure that the imposition of fines does not have a disparate impact on non-utility LSEs. If a non-utility LSE is assessed fines, the corresponding cost is borne by the LSE's owners/shareholders. To have equity across all LSEs, the Commission should ensure that any fines assessed against the investor-owned utilities (IOUs) are likewise paid by the IOU's shareholders (rather than ratepayers). Moreover, the Commission should make it clear that, as a matter of policy, LSEs which opted to have the IOUs procure D.19-11-016 resources on their behalf will not be subject to penalties for an IOU's failure to meet the required online dates. Causing such fines to be paid in part by non-utility LSEs (or their customers) would be patently unfair, given that the LSEs have no way to compel the IOUs to fulfill their procurement responsibilities and any online delays would thus have been beyond the LSEs' reasonable control.

2. Increase RA Compliance Penalties

WPTF opposes Staff's proposal to increase penalties for system RA deficiencies during August and September 2022. The Commission addressed the sufficiency of system RA penalties in the RA proceeding on two recent occasions. First, in June 2020, the Commission increased the penalty for summer months from \$6.66 to \$8.88 kW-month.¹ Second, in a decision issued last month, the Commission adopted an escalatory penalty structure, whereunder LSEs with repeated deficiencies are potentially subject to penalties of two or three times the standard amount.² In the

¹ D.20-06-031 at 61.

² D.21-06-019 at 59.

same decision, the Commission declined to adopt Staff's proposal to further increase system RA penalties on the grounds that the impact of the shaped penalties adopted in June 2020 (i.e., \$8.88 for summer months and \$4.44 for non-summer months) needs to be assessed before it considers raising the overall system penalty price.³ Since Staff has not presented any evidence that the current summer penalty of \$8.88 kw-month and the recently adopted escalation mechanism are inadequate to incentivize LSE compliance, there is not a sufficient record basis in this proceeding for increasing system RA penalties for summer 2022.

3. Accelerate Procurement Ordered in IRP Mid-Term Reliability Decision

WPTF understands this proposal to be specific to the IOUs, as the Commission has no authority to pay non-utility LSEs incentives using ratepayer money. In theory, financial incentives could result in the IOUs accelerating procurement of mid-term reliability resources. But it is hard to imagine such incentives materially impacting actual online dates. Due to the COVID pandemic, supply chain issues, and the cascading effects thereof, developers are already having difficulty meeting their commercial operation date (COD) commitments under contracts that were executed long before D.21-06-035 was issued. Developers have no incentive to delay and every incentive to achieve COD (otherwise, they do not get paid). Thus, providing the IOUs financial incentives in the hopes it will result in earlier CODs for D.21-06-035 resources would likely be, at best, a pointless exercise. At worst, the IOUs might end up being paid for projects achieving earlier CODs that developers would have been able to meet regardless of whether they or the IOUs get a bonus payment. WPTF therefore opposes Staff's proposal.

³ *Id.* at 60.

4. Emergency Procurement and Cost Recovery via a Non-Bypassable Charge

While WPTF is loath to see yet another non-bypassable charge assessed on customers, WPTF will reserve comment on Staff's proposal to establish a new NBC to recover the costs of emergency procurement ordered in Phase 2 of this proceeding. WPTF comments focus instead on some of the resources that Staff identifies as potentially being eligible for the new NBC.

Utility-owned storage resources located on IOU properties. Contrary to Staff's suggestion, WPTF is not aware of any advantage the IOUs may have with respect to the co-location of energy storage on the site of an existing utility-owned power plant or substation. If Staff has been told by the IOUs that they enjoy some such advantage, the particulars should be made a part of the record so that parties have an opportunity to respond to the IOUs' claims.

Resources that provide energy dispatch in response to alerts, warnings or stage of emergency. Establishing a new category of resources that are only dispatched during system emergencies could have unintended consequences, such as suppressing energy prices and displacing RA resources, that would be counterproductive in terms of ensuring the maximum amount of firm capacity is available to the CAISO for dispatch.

Additional firm imports above RA limits. It is unclear what Staff means by "RA limits." It is also unclear whether imports that are not subject to the same requirements as RA imports would be counted as capacity that fulfills any IOU emergency procurement requirements under Staff's proposal. WPTF believes that imports procured for reliability purposes should enhance resource adequacy, i.e., they should be subject to the RA import rules.

Long-term contracts for gas generation procured by the IOUs on behalf of all customers. WPTF is leery of Staff's proposed requirement for gas generation that is contracted for more than five years to meet some undefined green hydrogen utilization standard or utilize

some other means to offset local air pollutants and greenhouse gas emissions. While such a requirement would be consistent with the state’s clean energy policies, it could as a practical matter ensure that no gas generation is procured, given the nascent stage of such technologies and associated cost risks to gas plant owners.

Firm supply resources that are available for dispatch to meet the net peak but do not otherwise meet RA capacity obligations. It is unclear to WPTF what the characteristics of such resources would be. Would they count as “capacity” but not be subject to the same requirements as RA resources? Would they count as firm energy for dispatch during system emergencies, similarly to the resources described above? If so, WPTF holds the same concerns that establishing this new class of “reliability” energy products could lead to unintended consequences such as energy price suppression. WPTF is also concerned that the deployment of such resources in any significant amounts could have the perverse and counterproductive effect of undercutting the competitiveness of existing RA resources.

WPTF appreciates the Commission’s consideration of these initial comments on the Staff Concept Paper.

Respectfully submitted,



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September 1, 2021

VERIFICATION

I, Gregory Klatt, am authorized to make this verification on behalf of Western Power Trading Forum. I declare under penalty of perjury that the statements in this testimony are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, I believe them to be true.

Executed on September 1, 2021, at Arcadia, California.