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**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

**ASSIGNED COMMISSIONER'S RULING SEEKING COMMENT  
ON CLARIFICATION TO RESOURCE ADEQUACY IMPORT RULES**

**Summary**

This Assigned Commissioner's Ruling (ACR) seeks responses from parties on questions about the use of energy imported into California to meet resource adequacy (RA) requirements. Responses to the questions posed in this Ruling are necessary to determine compliance with current rules on RA import resources and whether the rules should be changed to deter speculative contracts, as well as to ensure the integrity of the RA program. Parties may file and serve responses to the questions outlined in this Ruling by July 19, 2019, with reply comments due by July 26, 2019.

**1. Background**

The Commission's resource adequacy (RA) qualifying capacity rules require there to be sufficient physical resources – energy, operating reserves, and firm transmission – provided by imports used to meet RA requirements. Specifically, Decision (D.) 04-10-035 adopted the following qualifying capacity methodology for imports:

The qualifying capacity for import contracts is the contract amount if the contract (1) is an Import *Energy* Product with operating reserves, (2) *cannot be curtailed for economic reasons*, and either (a) is delivered on transmission that cannot be curtailed in operating hours for economic reasons or bumped by higher priority transmission or (b) specifies firm delivery point (i.e., is not seller's choice).<sup>1</sup> (Emphasis added.)

In addition, D.05-10-042 established that non-unit specific, liquidated damage (LD) contracts would be phased out of use in the RA program. These types of contracts increase the possibility of double counting resources and are not subject to deliverability screens.<sup>2</sup> Both of these concerns had the potential to impact long-term grid reliability. However, the Commission created one category of non-unit specific LD contracts that would not be phased out: LD contracts that met import deliverability requirements and demonstrated sufficient physical resources associated with them (i.e., spinning reserves and firm energy delivery).

D.05-10-042 stated:

Firm import LD contracts do not raise issues of double counting and deliverability that led us to conclude that other LD contracts should be phased out for purposes of RAR.<sup>3</sup> We note that firm import contracts are backed by spinning reserves. Accordingly, we approve the exemption of firm

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<sup>1</sup> D.04-10-035 Workshop Report at 21, available at: [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/REPORT/37456.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/REPORT/37456.PDF).

<sup>2</sup> See Qualifying Capacity Methodology Manual Adopted 2017 (R.17-09-020) at 3-5, available at: <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442455533>.

<sup>3</sup> RAR is the abbreviation of resource adequacy requirements.

import LD contracts from the sunset/phase-out provisions applicable to other LD contracts as adopted in Section 7.4.<sup>4</sup>

In its September 2018 special report on RA imports, the California Independent System Operator's (CAISO) Department of Market Monitoring (DMM) noted that RA imports are only required to bid into the day-ahead market (DAM) and that imports can bid at any price up to the \$1,000 per MWh offer cap without any further obligation to bid into the real-time market if not scheduled in the DAM or residual unit commitment process. DMM explained that the existing rules could therefore allow a significant portion of RA requirements to be met by imports that may have limited availability and value during critical system and market conditions. For instance, RA imports could be routinely bid significantly above projected prices in the DAM to help ensure they do not clear, thus relieving them of any further offer obligations in the real-time market.<sup>5</sup> CAISO has raised similar concerns in its Resource Adequacy Enhancements stakeholder initiative, noting that

[T]he current RA import provisions may allow some RA import resources to be shown to meet RA obligations while also representing speculative supply, (i.e., no true physical resource or contractual obligation backing the RA showing) or being committed to other regions and double counted.<sup>6</sup>

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<sup>4</sup> D.05-10-042 at 68.

<sup>5</sup> Department of Market Monitoring Special Report: Import Resource Adequacy (September 10, 2018), available at: <http://www.caiso.com/Documents/ImportResourceAdequacySpecialReport-Sept102018.pdf>.

<sup>6</sup> See Resource Adequacy Enhancements Straw Proposal – Part 1 (December 20, 2018) at 9, available at: <http://www.caiso.com/Documents/StrawProposalPart1-ResourceAdequacyEnhancements.pdf>.

Based on this information, the Commission is concerned that some load serving entities (LSEs) may be relying on unspecified imports for RA in a manner that does not conform with the D.04-10-035 and D.05-10-042 requirements and could undermine the integrity of the RA program. Specifically, some unspecified imports used by LSEs to meet RA requirements may not provide firm energy delivery, which raises the question of whether these resources will be able to deliver energy to the grid when it is needed most.

To address this concern, Energy Division staff sent an e-mail to all LSEs subject to the RA program on April 3, 2019, requesting supplemental RA import information to ensure compliance with the Commission's RA requirements (*see* April 3, 2019 Energy Division email correspondence attached as Appendix A). In particular, Energy Division staff requested documentation in the form of either contract language or an attestation from an import provider that the imports being used by LSEs met the requirements articulated in previous Commission decisions.

In response to Energy Division staff's request, certain information provided by LSEs (*e.g.*, contract language) appears to indicate the import provider/counterparty will only provide energy and operating reserves *if* its bids in the DAM are selected. This suggests that some LSEs interpret the Commission's rules to mean that a Must-Offer Obligation in the DAM is sufficient to meet RA import requirements. However, unspecified RA import resources that are not tied to firm energy delivery and that participate in the market in the manner described by DMM (*i.e.*, that bid above projected prices during critical system and market conditions to ensure they do not clear in the DAM) may be receiving capacity payments/value with no intention of providing energy to CAISO's markets. Furthermore, it is unclear whether such resources

would be able to deliver energy, if selected, or would simply pay a penalty. Penalties act as a deterrent, but they do not fulfill real time energy needs and thus do not contribute to the sufficiency of supply that the RA program is meant to ensure. RA import resources that cannot perform if called upon thus amount to “speculative supply,” as described by CAISO.

Given these concerns and given that current Commission rules appear to require imports to include firm energy and firm transmission, this Ruling seeks to gather further information that may be used to clarify existing policy, if necessary, and to take action to ensure the integrity of the RA program.

## **2. Request for Responses**

Parties may file and serve responses to the following questions no later than July 19, 2019, with reply comments due by July 26, 2019. Please sufficiently explain each answer.

1. Should Commission decisions (a) require RA import contracts to include the actual delivery of firm energy with firm transmission and (b) clarify that only a bidding obligation is deemed not sufficient to meet RA rules?
2. Do parties agree that firm transmission capacity is required in addition to firm energy? Please explain why or why not.
3. Should the Commission clarify its rules, or are existing decisions and requirements sufficient? If the former, please propose clarifying language and/or how such clarifications should be established.
4. If the Commission determines that RA import contracts with a bidding obligation, but without delivery of firm energy with firm transmission, do not qualify as RA, how should these types of contracts be addressed going forward? Should these contracts be disallowed for the balance of 2019, beginning in 2020, or at a later date?
5. How should LSEs document that their RA import resources meet the Commission’s import rules? Examples

may include, but are not limited to, LSEs providing attestations or certifications for each import contract or attestations from the import provider.

6. If necessary, how should Energy Division staff determine compliance?
7. If it is determined that the imports used by an LSE do not meet the Commission's firm energy requirements, does the existing RA penalty structure provide enough deterrence to prevent further transactions of this type? If not, what additional remedies or corrective measures should be imposed?

**IT IS RULED** that parties to this proceeding may file and serve responses to the questions outlined in this Ruling by July 19, 2019. Reply comments may be filed and served by July 26, 2019.

Dated July 3, 2019, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph  
Assigned Commissioner

# APPENDIX A

**From:** Chow, Lily  
**Sent:** Wednesday, April 03, 2019 11:23 AM  
**To:** 'info@3phasesrenewables.com'; 'mmazur@3phasesRenewables.com';  
'ndepasquale@3PhasesRenewables.com';  
'dbutsack@americanpowernet.com'; 'gkrajnik@americanpowernet.com';  
'Brian@pacificea.com'; 'drobertson@applevalley.org'; 'CPACC@calpine.com';  
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'yyu@ces-ltd.com'; 'tsmith@ces-ltd.com'; 'tsmoker@ces-ltd.com';  
'mhyams@sflower.org'; 'EMulberg@sflower.org'; 'rbrito@sflower.org';  
'sgoldmuntz@sflower.org'; 'skjones@sflower.org'; 'rbrito@sflower.org';  
'dking@cosb.org'; 'sstewart@teainc.org'; 'tpho@teainc.org';  
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'SParr@edms-llc.com'; 'regulatory@pilotpowergroup.com';  
'tbardacke@cleanpoweralliance.org'; 'mlanger@cleanpoweralliance.org';  
'nkefer@cleanpoweralliance.org'; 'BVosburg@teainc.org';  
'aluszcz@ageraenergy.com'; 'blaising@braunlegal.com';  
'John@pacificea.com'; 'sdoherty@peninsulacleanenergy.com';  
'S3T8@pge.com'; 'GxZ5@pge.com'; 'axl3@pge.com'; 'S1O0@pge.com';  
'AAnderson@edms-llc.com'; 'regulatory@pilotpowergroup.com';  
'roxana.khayyam@ncpa.com'; 'JWindesh@placer.ca.gov';  
'rengel@redwoodenergy.org'; 'acampbell@redwoodenergy.org';  
'mslackerelli@redwoodenergy.org'; 'jgwynn@redwoodenergy.org';  
'zayda.barajas@sce.com'; 'Magesh.Srinivasan@sce.com';  
'eric.lavik@sce.com'; 'Ryan.Belgram@sce.com';  
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'jpasquito@semprautilities.com'; 'ntang@semprautilities.com';  
'TVonder@semprautilities.com'; 'Marcie.Milner@shell.com';  
'lisa.strain@shell.com'; 'joyce.jenq@shell.com';  
'demerson@sonomacleanpower.org'; 'gsyphers@sonomacleanpower.org';  
'binskeep@eq-research.com'; 'belder@eq-research.com';  
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rivera.org'; 'isaiahh@RanchoMirageCA.gov'; 'TPrill@sanjacintoca.us';  
'BGustafson@sflower.org'; 'Lisa.Limcaco@valleycleanenergy.org'  
Subject: RAfiling; Dahlberg, Nick (Nick.Dahlberg@cpuc.ca.gov)  
Import Requirement for RA Month Ahead and Year Ahead Filings

Dear LSE,

It has come Energy Division Staff's attention and has also been raised by CAISO in a recent stakeholder initiative that some unspecified imports being used to meet Resource Adequacy (RA) requirements may not be supported by spinning reserves and firm energy delivery behind them, as required by Commission decisions.

The Commission's qualifying capacity rules require that there are sufficient physical resources – both energy and operating reserves – behind imports used to meet RA requirements.

Specifically, D.04-10-035, adopted the following methodology:

The qualifying capacity for import contracts is the contract amount if the contract (1) is an Import Energy Product with operating reserves, (2) cannot be curtailed for economic reasons, and either (a) is delivered on transmission that cannot be curtailed in operating hours for economic reasons or bumped by higher priority transmission or (b) specifies firm delivery point (i.e., is not seller's choice).<sup>[1]</sup>

In addition, D.05-10-042 established that liquidated damage contracts (**which are non-unit specific contracts**) would be phased out of use in the RA program because they allow the possibility of double-counting resources in fulfilling RA obligations and are not subject to deliverability screens. Both of these concerns ran the risk of impacting long term grid reliability.

Non-unit specific imports, however, were not subjected to the phase out as long as they met the import deliverability requirement and had sufficient physical resources associated with them (i.e., spinning reserve and firm energy delivery to a certain point).

Decision D.05-10-042 specifically states that:

Firm import LD contracts do not raise issues of double counting and deliverability that led us to conclude that other LD contracts should be phased out for purposes of RAR. We note that firm import contracts are backed by spinning reserves. Accordingly, we approve the exemption of firm import LD contracts from the sunset/phase-out provisions applicable to other LD contracts as adopted in Section 7.4.<sup>[2]</sup>

To ensure that our import rules are followed both in form and in substance, **we require that LSEs provide documentation in their current RA compliance filing that reflects that the unspecified imports being submitted to meet RA requirements have firm energy delivery and operating reserves behind them.** This documentation can be in the form of contract language or an attestation from the import provider that confirms the import is supported by firm energy and operating reserves. **Beginning with**

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<sup>[1]</sup> D.04-10-035 Workshop Report at 21 - [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/REPORT/37456.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/REPORT/37456.PDF)

<sup>[2]</sup> D.05-10-042 at 68

**the June 2019 Month Ahead RA showing, you will be required to provide this supporting documentation for all unspecified imports used to meet RA requirements (both Month Ahead and Year Ahead).**

This data is required by Public Utilities Code, Section 380 and enforced under the Resource Adequacy citation program adopted in E-4017 (modified in E-4195).

Public Utilities Code, Section 380, subdivision (f) provides,

[t]he commission shall require sufficient information, including, but not limited to, anticipated load, actual load, and measures undertaken by a load-serving entity to ensure resource adequacy, to be reported to enable the commission to determine compliance with the resource adequacy requirements established by the commission.

The Resource Adequacy citation program provides that “a “Specified Violation” means the failure, absent an approved extension, to submit: (a) any load data, load forecast or other Resource Adequacy compliance filing in the time and manner required; and (b) **other supporting data required by Staff that is reasonably related to the implementation of the Commission’s Resource Adequacy program.**

<sup>[1]</sup> D.04-10-035 Workshop Report at 21, available at [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/REPORT/37456.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/REPORT/37456.PDF)

<sup>2</sup> D.05-10-042 at 68

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