

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



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Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider Program
Refinements, and Establish Annual Local
Procurement Obligations.

Rulemaking 09-10-032
(Filed October 29, 2009)

**REPLY COMMENTS OF NORTH AMERICA POWER
PARTNERS LLC ON PHASE I WORKSHOP ISSUES**

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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 Procurement Obligations.

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Pursuant to the schedule established in the *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge Determining the Scope, Schedule, and Need for Hearing in this Proceeding*, (“Scoping Memo”) dated December 23, 2009, as modified by the e-mail from Administrative Law Judge David Gamson on March 4, 2010, North America Power Partners LLC (“NAPP”) submits its reply comments on the Phase I workshop issues.

NAPP is a full service demand response (“DR”) aggregator focused solely on developing reliable DR resources in California and other states. As a provider of DR resources in California, NAPP has a direct interest in the Commission’s efforts to establish rules and polices affecting DR, including rules and policies on the role of DR in the Commission’s Resource Adequacy (“RA”) program.

I. BACKGROUND

The Scoping Memo identified two broad issues for consideration in Phase 1 of this proceeding: review of the yearly Local Capacity Requirements recommended by the California Independent System Operator (“CAISO”), and refinements to the RA program. The refinements included seven topics:

1. Extending the Standard Capacity Product to include currently exempt resources
2. Refining the Standard Capacity Product to be a commercially viable product
3. Clarification to DR counting via load-impact protocols
4. Local RA True-ups
5. Local Area Resource Deficiencies
6. Local Area Substitution
7. Implementation of Senate Bill 695

On March 10, 2010, parties filed comments on these Phase 1 issues. The comments of EnerNOC, Inc. (“EnerNOC”) focused on the first three of the topics related to refinements of the RA program. NAPP’s reply comments will address EnerNOC’s points that the Standard Capacity Product should be extended to DR resources and that a better method should be adopted for determining the net qualifying capacity for DR resources.

II. THE STANDARD CAPACITY PRODUCT SHOULD BE EXTENDED TO DEMAND RESPONSE RESOURCES

The Commission and the CAISO have worked together to develop a Standard Capacity Product (“SCP”) to facilitate transactions involving RA capacity. In its initial version of the SCP, the CAISO excluded certain resources, including DR resources, from using the SCP for RA capacity transactions. The Federal Energy Regulatory Commission (“FERC”), which must approve the CAISO’s tariffs (including

the SCP), approved the SCP with the requested exemptions but directed the CAISO to develop approaches that would allow the exempt resources also to use the SCP for transactions involving RA capacity.

NAPP agrees with EnerNOC's position that the SCP should be modified to include DR resources. DR resources are proven, long-term, reliable resources that provide capacity that qualify for purposes of RA and that should have the same ability as other RA resources to take advantage of the transactional efficiencies that are the purpose of the SCP. NAPP has effectively managed DR resources, including resources that for several years have repeatedly and successfully responded to calls to reduce demand. Based on the proven track record of DR resources, these resources should qualify for the SCP for purposes of RA.

By continuing the exemption of DR resources from use of the SCP, the Commission will provide an unfair competitive advantage to conventional supply resources. If RA capacity from conventional supply resources can be acquired under the SCP, with standardized, pre-approved terms and conditions and low transaction costs, what incentive does a load-serving entity ("LSE") have to purchase DR capacity that requires negotiation of a contract that is specific to a particular DR resource and thus requires the LSE to incur significantly higher transaction costs? The continuing exemption of DR resources from the SCP will also economically disadvantage the participation by DR resources in the CAISO's new Proxy Demand Resource ("PDR")

initiative relative to utility- or aggregator-managed programs.¹ Restricting the ability of DR to use the SCP for RA transactions will further signal to the marketplace that California is lukewarm in its commitment to the development of DR resources as a clean and reliable energy alternative. This signal is inconsistent with the Commission's previous positions on DR, which established DR high on the loading order of the Energy Action Plan and set significant DR goals for the utilities.

Due to the timing of the CAISO's annual determination of Local Capacity Requirements and the LSEs' required showing that they have procured adequate RA capacity, delays in incorporating DR in the SCP at this time would result in a continuation of DR resources' competitive disadvantage for up to two summers (2010 and 2011). This outcome would not only delay the development of significant DR resources in California, but it could also stall the momentum of the emerging DR market in California.

III. THE COMMISSION SHOULD ADOPT IMPROVED METHODS FOR DETERMINING THE NET QUALIFY CAPACITY OF DR RESOURCES

To date, the Commission has relied on Load Impact Protocols that were originally developed for long-term planning purposes to determine the Net Qualifying Capacity (NQC) of DR resources for RA purposes. This approach tends to significantly underestimate the ability of DR resources to respond to requests to reduce load in the

¹ If the PDR program and other CAISO initiatives, combined with the Commission's programs, do not create the proper incentives for a healthy and reliable DR market, California will face the loss of performing DR assets that cannot be recovered in the short term, as industrial and commercial customers decide to invest in other aspects of their operations, rather than in DR.

short term (which is equivalent to requests for supply resources to increase supply). NAPP agrees with EnerNOC's proposal that the NQC for DR resources for purposes of the RA program and other wholesale transactions should be determined by testing the registered capacity of the resource. In the East, PJM implemented a testing requirement for DR capacity resources in 2009. This testing requirement and procedures may be used as an effective model for the qualification and validation of DR resources. Testing a resource within the program delivery year provides a more accurate depiction of the resource's availability in the timeframe that it is required to perform, rather than using historical data of long-term performance assessment like the Load Impact Protocols.

IV. CONCLUSION

The fact that existing capacity markets across the United States successfully incorporate DR underscores the conclusion that DR can make a significant contribution to the resource mix as a capacity resource. If the Commission delays the incorporation of DR into the SCP and continues in the NQC calculation to underestimate the actual contribution that DR can make as an RA capacity resource, then it will stifle the development of DR in California and limit the participation in the RA program, utility-based programs, utility-based aggregator programs, and California's wholesale electric markets.

For these reasons, NAPP respectfully urges the Commission to:

- End the exemption of DR and allow transactions for RA capacity involving DR resources to use the SCP to sell RA capacity; and
- Adopt EnerNOC's proposal for calculating the NQC for DR resources

CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 30th day of March 2010 caused a copy of the foregoing

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to be served on all known parties to R.09-10-032 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of March 2010 at San Francisco, California.

/s/ Melinda LaJaunie
Melinda LaJaunie

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(Updated March 25, 2010)

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