**FILED**
06/08/20
04:59 PM

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 | R.17-09-020 |

# OPENING COMMENTS OF SHELL ENERGY NORTH AMERICA (US), L.P. ON THE PRESIDING JUDGE'S MAY 18, 2020 PROPOSED DECISION ON RA IMPORT REQUIREMENTS

John W. Leslie
Dentons US LLP
4655 Executive Drive, Suite 700
San Diego, California 92121
Tel: (619) 699-2536
Fax: (619) 232-8311
E-Mail: john.leslie@dentons.com

Attorneys for Shell Energy North America (US), L.P.

Date: June 8, 2020

**SUBJECT INDEX**

## TABLE OF AUTHORITIES

**Page(s)**

**Commission Decisions**



**Statutes**



## SUMMARY OF RECOMMENDED CHANGES TO THE PROPOSED DECISION

1. The Commission should modify the PD to allow "resource-specific" RA imports to include a supplier's pool of resources, as well as "pseudo-tied" and "dynamically scheduled" resources.

2. The Commission should modify the PD's recommended eligibility requirements for "non-resource specific" RA imports. The Commission should eliminate the PD's recommended "self-schedule" requirement, as well as the proposed alternative bidding requirement into the CAISO day-ahead and real-time markets during the Availability Assessment Hours ("AAH") throughout the RA compliance month.

3. The Commission should eliminate the requirement, for "non-resource specific" RA imports, that bids be at a level between negative $150/MWh and $0/MWh.

4. The Commission should eliminate the PD's recommendation to require an energy contract to include a sale of energy to the LSE, and the PD's recommended requirement that the price in an energy contract must be denominated in $/MWh or $/kWh.

5. The Commission should remove the PD's recommendation to require LSEs to provide, to the Energy Division, full unredacted versions of their RA contracts, rather than supplier attestations and/or redacted versions of LSEs' RA contracts.

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 | R.17-09-020 |

# OPENING COMMENTS OF SHELL ENERGY NORTH AMERICA (US), L.P. ON THE PRESIDING JUDGE'S MAY 18, 2020 PROPOSED DECISION ON RA IMPORT REQUIREMENTS

In accordance with Rule 14.3 of the Commission's Rules, Shell Energy North America (US), L.P. ("Shell Energy") submits its opening comments on the proposed decision ("PD") that was circulated in the above-referenced proceeding on May 18, 2020 by Presiding Administrative Law Judge Debbie Chiv. The PD recommends that the Commission adopt modifications to the eligibility requirements for resource adequacy ("RA") imports. The PD recommends that the Commission adopt new eligibility requirements for both "resource-specific" and "non-resource specific" RA imports.

Shell Energy urges the Commission to modify the PD. First, the Commission should not limit "resource-specific" RA imports to "pseudo-tied" or "dynamically scheduled" resources.

Second, the Commission should modify the PD's recommended eligibility requirements for "non-resource specific" RA imports. The Commission should eliminate the PD's

recommended "self-schedule" requirement (and the alternative bidding requirement into the CAISO day-ahead and real-time markets during the Availability Assessment Hours ("AAH") throughout the RA compliance month). The Commission should also eliminate the PD's proposed requirement that energy bids be at a level between negative $150/MWh and $0/MWh.

Third, the Commission should eliminate the PD's recommendation to require an RA import energy contract to include a sale of energy to the LSE (not to the CAISO generally). In addition, the Commission should eliminate the PD's recommended requirement that the energy contract price must be denominated in $/MWh or $/kWh.

Finally, the Commission should remove the PD's recommendation to require LSEs to provide, to the Energy Division, full unredacted versions of their RA contracts.

In support of its proposed changes to the PD, Shell Energy provides proposed revised findings of fact and conclusions of law in Appendix A.

## I.

## INTRODUCTION

The PD recommends that "resource-specific" RA imports should be limited to resources that are either pseudo-tied or dynamically scheduled into the CAISO day-ahead and real-time markets, and should be limited to circumstances in which the LSE has provided a resource-specific resource ID in its RA filing that is listed on a matching CAISO supply plan and on the Commission's net qualifying capacity ("NQC") list. PD at p. 45. The PD states that it is reasonable to limit resource-specific RA imports to pseudo-tied or dynamically scheduled resources because these imports operate as -- and have the same reliability benefits as -- internal generating units. See PD at pp. 40-41.

The PD recommends that for "non-resource specific" imports to qualify for RA eligibility, the energy must self-schedule (or in the alternative, bid in at a level between negative $150/MWh and $0/MWh) into the CAISO day-ahead and real-time markets, and the energy must

self-schedule (or in the alternative, bid in at a level between negative $150/MWh and $0/MWh) at least during the AAH throughout the RA compliance month, consistent with the Maximum Cumulative Capacity ("MCC") bucket requirements. PD at p. 46.

The PD also recommends that an eligible RA import energy contract must include, among others, the following terms: (1) the sale of energy to the LSE must be denominated in $/MWh or $/kWh; and (2) the sale of energy delivery is to the LSE specifically, not to the CAISO generally. PD at p. 46. The PD further recommends that for both resource-specific and non-resource specific RA import contracts, the resource must be paired with an import allocation right. Id.

Finally, the PD recommends that the Commission eliminate the requirement that LSEs provide "attestations" from their suppliers to verify compliance. The PD recommends that the Commission require LSEs that rely on non-resource-specific import RA contracts to provide full unredacted versions of their RA contracts to verify compliance with the requirements. PD at p. 47.

Throughout the PD, the Presiding Judge emphasizes that the objective in adopting revised RA import requirements is to eliminate the potential for LSEs to rely on "speculative supply" to meet their system RA requirements. See PD at p. 42. The PD states: "As capacity continues to tighten in the West, the Commission is concerned that the use of speculative supply contracts could lead to supply shortfalls and price spikes in the short-term markets that will undermine reliability and render the RA program ineffective." PD at p. 32. The PD fails to note, however, that the CAISO has approved and is implementing in Fall 2020 a new intertie deviation penalty that will significantly penalize imports that are not delivered to the CAISO.

Contrary to the PD's stated objective, the PD's proposed changes to the current RA import requirements, if adopted, would reduce the available supply of system RA resources and increase the price of system RA capacity. For example, the PD's proposal to require an LSE to provide a CAISO Resource ID for a pseudo-tie or dynamically scheduled resource to verify the supply of energy would limit the availability of units external to the CAISO BA that can provide

system RA. This limitation is not aligned with recent Commission decisions addressing the need for RA supplies from external resources (see, e.g., D.19-11-016 (November 7, 2019)), or with CAISO concerns about the overall supply of system energy, as evidenced in the recent CAISO stakeholder process addressing system market power.

Furthermore, the PD's proposed additional eligibility requirements for non-resource specific RA energy imports would reduce supply and negatively impact grid reliability. The PD's recommended changes to the requirements for non-resource specific RA imports would exacerbate, not relieve, the constraint on system RA supplies.

As noted above, the CAISO is in the midst of a stakeholder process reviewing system market power and possible mitigation measures. System market power contemplates a shortage of capacity resources in the CAISO. Removing 4,640 MW of non-resource specific RA system capacity (approximately 10 -20 percent of system RA)[1] from import availability, or limiting the availability of this capacity, or increasing the price of this potential system RA capacity supply, could jeopardize grid reliability or cause shortages that would in turn drive up prices. The Commission should consider the impact of imposing these limitations on resource-specific RA imports, and the impact of imposing ill-advised requirements on non-resource specific RA imports, at a time when the supply of system RA capacity is already short.

## II.

## "RESOURCE-SPECIFIC" RA IMPORTS SHOULD NOT BE LIMITED TO PSEUDO-TIED AND DYNAMICALLY SCHEDULED RESOURCES

The PD recommends that resource-specific RA imports should be limited to "pseudo-tied" or "dynamically scheduled" resources. PD at p. 45. The PD states: "We find it reasonable to define resource-specific imports to include only pseudo-tied or dynamically scheduled resources because these imports operate and have the same reliability benefits as internal generating units." PD at pp. 40-41.

[1] See PD at pp. 15-16.

Unfortunately, the PD's proposed limitation, if adopted, would have several specific negative consequences that would materially affect reliability and system RA supply economics. The Commission should avoid adopting a narrow definition of "resource-specific" RA imports that unduly limits the ability of out-of-State resources to participate in the CAISO market.

The PD incorrectly claims that "[r]esource-specific RA imports have historically included only pseudo-tied or dynamically scheduled resources." PD at p. 10. The requirement that an LSE provide a CAISO Resource ID for a pseudo-tied or dynamically scheduled resource would limit the availability of units that can provide import RA. As noted above, this limitation is not aligned with recent Commission decisions addressing the need for RA supplies from external resources, or with CAISO concerns about the overall supply of system energy.

Market participants are capable of providing RA import energy from a portfolio of resources, and not necessarily from a single Balancing Authority ("BA") or behind a single supply point at the border. A "pool" of resources provides a more reliable energy supply when economically dispatched by the CAISO. Physical units can be identified separately in attestations provided by market participants. Verification via use of a CAISO Resource ID, however, is unduly limiting and not consistent with actual operation of the grid or CAISO dispatch operations.

Limiting "resource-specific" RA import eligibility to pseudo-tied or dynamically scheduled resources would be unduly restrictive. In fact, a pseudo-tie resource becomes part of the CAISO BA from the perspective of operating reserves and dispatch, and is not electrically managed as an external resource. As noted in the PD: "Pseudo-tied resources operate like internal generating resources in that they typically have metering and telemetry, a real-time must-offer obligation (MOO) and cannot be recalled to a neighboring balancing authority's area (BAA) for reliability purposes." PD at p. 10. A resource that meets the requirements for a pseudo-tie resource is no longer an "external" RA resource, but is competing with in-state resources.

As a result, a pseudo-tie resource is actually part of the CAISO BA, with financial

support such as bid cost recovery. For this reason, a pseudo-tie resource should not be classified as an RA import at all. The CAISO cannot source RA imports internally, which is what the effect of the Commission's decision would be. Accordingly, a pseudo-tie resource should not even be considered as an RA import.

Furthermore, dynamically scheduled and pseudo-tie resources are dispatched and controlled as part of the CAISO BA, and not as generation resources external to the CAISO. If eligible RA import resources were to be limited to dynamically scheduled resources, the quantity of RA capacity that could qualify would be severely limited. Of the 4800 MW capacity of the Pacific AC Intertie, only 600 MW is allowed to be dynamically scheduled. Adoption of the PD's proposed limitation would reduce external RA to 12.5 percent of the intertie capability, thus reducing economic RA capacity otherwise available to California LSEs and their customers.[2]

Finally, the PD states incorrectly that "nothing precludes imports that would like to participate in the market in a more flexible manner from doing so through existing resource-specific import models (i.e., as a pseudo-tie or dynamically scheduled resource-specific resource)." PD at pp. 39-40. Contrary to the PD's suggestion, it is extremely difficult to obtain the agreements necessary to establish a pseudo-tie resource. The PD notes that "[t]here are currently 12 pseudo-ties and 32 dynamically scheduled resource-specific imports registered with the CAISO . . . ." PD at p. 11. A pseudo-tie resource requires CAISO approval, approval by the Transmission Operator, and generation owner approval, tasks that are not insignificant and discourage liquidity in RA capacity markets. It is unlikely, in view of the difficulty in obtaining agreements for pseudo-tie resources, that the list of pseudo-tie resources will increase for RA compliance year 2021 as a result of the requirements recommended in the PD.

[2] Furthermore, the Pacific DC Intertie ("PDCI"), controlled by both LADWP and BPA, only allows for hourly block scheduling. As the PDCI does not allow intra-hour scheduling, the CAISO would not be able to remotely dispatch a generation resource on the PDCI through ADS, as it would a pseudo-tie or dynamically scheduled resource.

For all of these reasons, "resource-specific" RA imports should not be limited to dynamically scheduled resources or pseudo-tie resources. An LSE relying on resource-specific RA imports should be permitted to include a portfolio of resources, and not necessarily resources from a single BA or behind a single supply point at the border. As noted above, a "pool" of resources provides a more reliable energy supply when economically dispatched by the CAISO. Physical units can be identified separately in attestations provided by market participants.

Finally, if the PD's recommendation limiting resource-specific RA imports were to be adopted, the timing to establish a new pseudo-tie resource for the 2021 RA compliance year would be extremely difficult. After bilateral negotiations with a potential generation resource owner, it takes approximately three months to expedite approval through the CAISO to obtain pseudo-tie status. However, the CAISO publishes the NQC annually at the beginning of July on its NQC spreadsheet.

Based on this schedule, there does not appear to be sufficient time for LSEs or their suppliers to establish new pseudo-tie resources and to have these resources included on the NQC list in time to be included on the annual supply plan, due October 31. If the Commission decides to adopt the PD's proposed eligibility requirement for resource-specific RA imports, the Commission must coordinate with the CAISO to develop a streamlined process that allows resources to establish pseudo-tie status to support the PD's proposed implementation of the new RA import requirements for the 2021 RA compliance year.

## III.

## THE COMMISSION MUST MODIFY THE PD's RECOMMENDED ELIGIBILITY REQUIREMENTS FOR NON-RESOURCE SPECIFIC RA IMPORTS

The PD recommends that the Commission impose a self-scheduling requirement for all non-resource specific RA imports. The PD states: "[A]n energy delivery or self-schedule requirement over the AAH window for non-resource-specific import energy contracts addresses speculative supply concerns and reasonably ensures that bids in the day-ahead market will be backed by adequate physical supply." PD at p. 37.

Requiring the self-scheduling of non-resource specific RA import energy, however, would reduce CAISO flexibility and impede grid reliability. A "self-scheduling" requirement would limit the CAISO's ability to economically manage grid reliability. In some cases, a self-scheduling requirement would result in oversupply conditions with limited resources to curtail, or would result in overloaded lines and subsequent limits on the CAISO's generation resources and transmission system. If the Commission were to adopt this recommendation, the CAISO would find it difficult, and may not even have the right resources or sufficient resources, to decrement or increment generation to properly manage congestion and oversupply. In fact, the Commission should clarify that if the CAISO does not accept the day-ahead bid/schedule, the importer is relieved of any real-time scheduling requirement, as the CAISO has indicated that it does not need the import energy.

A "self-scheduling" requirement means that a supplier must schedule its contracted out-of-State resource(s) into the CAISO markets regardless of energy prices. This requirement, if adopted, would have a detrimental impact on price formation. Energy prices may support a self-scheduling requirement for imports during some hours; however, these hours would be difficult to predict.

As noted above, a self-scheduling requirement could result in oversupply, in which case the CAISO would have to schedule energy back out of the CAISO BA by re-dispatching Energy Imbalance Market ("EIM") entities downward in real-time to absorb the oversupply. The CAISO states that self-scheduling RA imports would result in an additional 1,200-1,500 MW of self-scheduled RA energy when solar production is at its peak.[3] This self-scheduling would result in oversupply conditions, forcing the CAISO to purchase self-scheduled energy and then decrement any available capacity within the CAISO BA. To balance supply, the CAISO would then export that energy to EIM entities with decremental generation capacity. For entities that

[3] CAISO RA Market Enhancements presentation, December 2019, pp. 28-29, http://www.caiso.com/Documents/RAEnhancements-Presentation-Dec6_2019.pdf#search=aah%20hours

supply RA import energy in the day-ahead scheduling process, this would result in "circular scheduling," an activity prohibited by FERC.

For example, an EIM entity with a MIC allocation that has contracted to provide RA import energy to a scheduling point would schedule non-resource specific RA import energy in the day-ahead market. In the real time market, the CAISO would identify EIM generation resources with decremental capacity and export energy to the EIM BAA. No energy would flow, the EIM entity would be paid the day-ahead energy price, and the EIM entity would be charged the decremental price for the circular schedule.

In effect, in the circumstances described above, no energy would flow, but there could be a significant cost to California ratepayers. RA contracts would have to incorporate the cost of delivering energy into the CAISO at low or negative prices, resulting in very high RA capacity costs, and creating requirements for out-of-State RA capacity that are substantially different from the requirements for in-state RA capacity -- raising questions about whether this Commission-imposed requirement unduly discriminates against out-of-State energy in violation of the Commerce Clause of the U.S. Constitution.

Self-scheduling, even with provisions to bid between -$150/MWh and $0/MWh, would affect wholesale price formation and lower the bid stack, generally depressing the market clearing price and resulting in prices that do not reflect normal market activity. It is a violation of FERC market behavior rules to bid in a manner that does not reflect normal market behavior. The FERC rules provide as follows:

> § 35.41 Market behavior rules.
>
> (a) Unit operation. Where a Seller participates in a Commission-approved organized market, Seller must operate and schedule generating facilities, undertake maintenance, declare outages, and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable market. A Seller is not required to bid or supply electric energy or other electricity products unless such requirement is a part of a separate Commission-approved tariff or is a requirement applicable to Seller through Seller's participation in a Commission-approved organized market.

A self-scheduling requirement for non-resource specific RA imports could reduce the use of MIC, or reduce the amount of external RA capacity made available to the CAISO, during the current period when system RA is tight and the CAISO is proposing system wide market power mitigation. The resulting increased cost of RA imports could in turn increase the cost of in-State system RA capacity.

Requiring the self-scheduling of non-resource specific RA import energy, without economic bids, would also require energy supply agreements to add the cost of uneconomic dispatch into the energy price. This, in turn, would result in higher than necessary costs to California ratepayers. For example, if an LSE buys energy at Mid-C at $30 per MWh and imports energy into the CAISO, but the LSE is only paid $25 per MWh, the LSE, and consequently its ratepayers, would lose $5/MWh. That loss must be included in either the LSE's RA cost or its energy cost. Based on the PD's recommendation that the Commission require an energy contract with a fixed price ($/MWh), this price risk must be incorporated in the energy supply price, resulting in a cost that covers both the supply and risk of uneconomic dispatch.

## IV.

## THE COMMISSION MUST MODIFY THE PD'S RECOMMENDED REQUIREMENTS FOR NON-RESOURCE SPECIFIC RA IMPORT ENERGY CONTRACTS

The PD states: "Considering the problems identified by [the] Energy Division with recent attestations from LSEs and suppliers, it is reasonable to require import contracts used to meet RA needs to provide: the sale of energy to the LSE denominated in $/MWh or $/kWh, the sale of energy delivery to the LSE specifically, not the CAISO generally, and a requirement that the import is not sourced from resources internal to the CAISO Balancing Area." PD at p. 40. The PD fails to articulate the "problems" identified by the Energy Division that the PD is trying to address. Of greater concern, however, is that the PD's recommendations do not comport with the current process through which all energy is sold to the CAISO and LSEs purchase all energy (for load) from the CAISO. The PD's recommendations, if adopted, would create uncertainty among LSEs and suppliers

that would result in higher costs for California ratepayers.

First, the PD's recommendation to require the sale of energy to be denominated in $/MWh or $/kWh should be rejected. While some aspects of energy procurement are known and purchased at a fixed cost to hedge against forward demand, other aspects of energy procurement, including transaction costs and other fees, are often handled as a "pass-through" in a supplier's contract with an LSE. If the purchase price of energy must include costs that are difficult to quantify (and that are currently handled as pass-through items), the "uncertainty risk" would be incorporated into an energy price that would be higher than what the price would be with pass-through charges. The Commission should be concerned about the added cost to ratepayers as a result of this additional contract risk. The Commission should remove, from the PD, the fixed price requirement for RA import contracts.

Second, the PD recommends that an RA importer must provide a contract that shows that energy will be sold to the holder of MIC import rights, and not to the CAISO. However, the existing process to transact energy within the CAISO does not allow for the direct sale of electricity to the end use market. As the Commission is aware, the CAISO both purchases all energy from suppliers and sells all energy to load. To supply energy to a customer (LSE), an RA importer must schedule energy to the CAISO; the RA importer is paid the scheduling point locational marginal price ("LMP") for that energy delivered to the CAISO. A "load" (presumably the counterparty for the RA import energy holding MIC rights), is charged by the CAISO the Load Aggregation Point ("LAP") LMP price for load taken out of the CAISO. The PD improperly recommends that the RA import contract must reflect the sale of energy delivery to the LSE.

Rather than adopt the PD's proposed RA import contract requirements, the Commission could specify an overall "settlement" that would account for the cost of the imported energy, or that would specify a "contract for differences." The PD, however, recommends an approach that cannot be accomplished. These elements of the PD should be eliminated.

## V.

## THE PD's RECOMMENDATIONS UNLAWFULLY INTRUDE ON FERC JURISDICTION OVER WHOLESALE MARKETS

In addition to violating FERC market behavior rules (as noted above), the PD's recommendations, if adopted, would infringe upon FERC jurisdiction over wholesale markets. Wholesale sales are not within this Commission's authority. Restricting the manner by which energy is bid in CAISO markets is squarely within the FERC's jurisdiction. By requiring certain suppliers to offer into the CAISO market as "price-takers," the Decision imposes impermissible conditions on wholesale sellers' participation in CAISO markets.

In support of its recommendations, the PD states: "The Federal Power Act expressly provides for state authority to assure the reliability of the long-term energy supply within their jurisdictions in the first instance." PD at p. 43. The PD states further that "nothing in the RA program prevents non-resource-specific imports from participating in CAISO's wholesale markets in any manner they feel appropriate if they have not executed a RA contract." Id. at p. 33.

Contrary to the PD's recommendation, a self-scheduling requirement for out-of-State resources would overstep the Commission's jurisdiction and would improperly impose more burdensome and discriminatory requirements on out-of-State resources compared to the requirements imposed on in-State RA resources. The PD's proposed requirements would apply unequally to RA import resources and in-State RA resources. Specifically, import RA would be required to self-schedule, i.e., bid as a "price taker," in the CAISO energy market. This recommendation, if adopted, would impose a "substantial and impermissible burden on interstate commerce" by imposing different requirements on RA imports than on in-State RA resources.

The PD's proposed discriminatory treatment of out-of-State supplies, if adopted, would establish an impermissible "import duty." External suppliers of capacity would be required to participate in the CAISO market on less advantageous terms than those terms imposed on internal generation resources. These additional, more onerous terms would expose out-of-State

suppliers to significant additional costs. When out-of-State sellers of capacity must participate in the CAISO market on different terms than their in-State counterparts, this constitutes discrimination prohibited by the dormant commerce clause of the U.S. Constitution.

Finally, the PD fails to address how to square the recommended self-scheduling requirement with P.U. Code Section 399.1l(e)(2). This statutory provision "requires generating resources located outside of California that are able to supply. . . electricity to California end-use customers to be treated identically to generating resources located within the state, without discrimination." By imposing a self-scheduling requirement on out-of-State non-resource specific RA imports, but not on in-State RA resources, the PD's recommendation, if adopted, would violate P.U. Code Section 399.11(e)(2).

## VI.

## THE COMMISSION SHOULD DELETE THE PD's RECOMMENDATION TO REQUIRE LSEs TO PROVIDE UNREDACTED RA IMPORT CONTRACTS TO THE ENERGY DIVISION

The PD recommends that the Commission eliminate the requirement that LSEs provide "attestations" from suppliers to verify compliance with the RA import requirements. The PD recommends instead that the Commission adopt a requirement that LSEs using non-resource-specific import RA contracts must provide full unredacted versions of their RA contracts to verify compliance with the requirements. The PD states: "Considering the problems identified by Energy Division as to certain LSEs' recent attestations, we conclude that attestations alone are not sufficient to verify compliance. Rather, we adopt a requirement that LSEs using non-resource-specific import RA contracts shall provide full unredacted versions of RA contracts to verify compliance with the requirements adopted in this decision." PD at p. 47.

The PD's recommendation should be eliminated. The Energy Division does not need an LSE's full, unredacted contracts to determine whether an LSE's contracts for non-resource specific resources meet the eligibility requirements for RA imports. Furthermore, it may not be possible for an LSE to secure its counterparty's agreement to turn over a full, unredacted

agreement to the Commission. It is important to note that most contract terms, including price, are not necessary to establish an LSE's compliance with the RA import requirements.

The Commission should retain the current requirement that an LSE provide an attestation from the LSE's counterparty to confirm the LSE's contracts meet the eligibility requirements for RA imports.

## VII.

## CONCLUSION

The PD is a significant disappointment. The PD's recommendations are substantially the same as the requirements adopted in the Commission's October 17, 2019 decision (D.19-10-021). The industry had significant objections to the October 2019 decision, which caused the Commission to stay the Decision (D.19-12-064 (December 23, 2019)), conduct extensive stakeholder meetings, solicit comments in this docket and in R.19-11-009, only to essentially re-issue the same order. The objections to the PD's recommendations remain. The Commission must address these issues or risk unwanted disruptions in the system RA market.

Accordingly, the Commission should modify the PD in several respects. The Commission should remove the limitation that permits only "pseudo-tied" or "dynamically scheduled" resources to qualify as "resource-specific" RA imports. In addition, the Commission should modify the PD's recommended eligibility requirement for "non-resource specific" RA imports. The Commission should eliminate the PD's recommended "self-schedule" requirement and the alternative bidding requirement into the CAISO day-ahead and real-time markets during the AAH throughout the RA compliance month. The Commission should also eliminate the requirement that bids be at a level between negative $150/MWh and $0/MWh.

Furthermore, the Commission should eliminate the PD's recommendation to require an energy contract to include a sale of energy to the LSE (not to the CAISO generally). The Commission also should eliminate the requirement that the energy contract price must be

denominated in $/MWh or $/kWh. The Commission also should remove the recommendation to require LSEs to provide, to the Energy Division, full unredacted versions of their RA contracts.

Finally, the Commission should adopt the SCE/Shell Energy Track One proposal in R.19-11-009. This proposal would establish a call option contract with maximum strike price for import RA resources to count toward RA requirements. This proposal, if adopted, would balance the need for ensuring the firmness of energy associated with import RA contracts with allowing economic transactions and reducing inflexible scheduling into the CAISO markets. This market-based approach would avoid the multitude of defects apparent in the PD.

Proposed revised findings of fact and conclusions of law are included in Appendix A.

Respectfully submitted,

John W. Leslie
Dentons US LLP
4655 Executive Drive, Suite 700
San Diego, California 92121
Tel: (619) 699-2536
Fax: (619) 232-8311
E-Mail: john.leslie@dentons.com

Attorneys for Shell Energy North America (US), L.P.

Date: June 8, 2020

## APPENDIX A

### Proposed Revised Findings of Fact and Conclusions of Law

A. Proposed Revised Findings of Fact ("FOF"):

1. Delete the second sentence of No. 3.

2. Delete FOF Nos. 4 and 5.

3. Delete FOF No. 6 and replace with the following: "Requiring an energy contract for non-resource-specific imports that must self-schedule into the CAISO markets would reduce available system RA resources, and increase costs for California ratepayers."

4. Delete FOF Nos. 7 and 8.

5. Delete FOF No. 9.

6. Delete FOF No. 10 and replace with the following: "It is not reasonable to limit resource-specific imports to pseudo-tied or dynamically scheduled resources."

7. Delete FOF Nos. 11 and 12.

8. Delete the second sentence of FOF No. 13 and replace with the following: "It is not necessary to require resource-specific imports to provide a resource ID that is listed on a matching CAISO supply plan and NQC list to verify compliance."

B. Proposed Revised Conclusions of Law ("COL"):

1. Delete COL Nos. 1-4.

2. Delete COL No. 6 and replace with the following: "LSEs using non-resource-specific import contracts to meet RA needs should provide fan attestation from its RA import supplier or a redacted version of the RA contracts to verify compliance with the adopted requirements."

114912325\V-2